contractor exceeds at its own risk (44 CFR §13.36(b)(10), Procurement standards). Since RECs, municipal utilities, and public power districts generally provide the materials used in repairing their systems, these contracts are referred to as "time and equipment" (T&E) contracts. Due to the critical nature of restoring power to the electrical grid following a disaster and because exigent circumstances do not permit delays related to fully assessing the damages before repair work begins, RECs, municipal utilities, and public power districts commonly use T&E contracts for making disaster-related repairs.

The use of T&E contracts to repair disaster-related damages to electrical transmission and distribution systems may be eligible for Public Assistance (PA) funding provided the utility owner:

(a) Documents the exigent circumstances that exist and explains why other types of contracts were not suitable;

(b) Documents why a detailed scope of work could not be developed for the repairs;

(c) Ensures that all T&E contracts contain a "ceiling price" that the contactor exceeds at its own risk, a "not to exceed" clause, or are otherwise limited by an applicant- issued task order;

(d) Performs and documents a price analysis to demonstrate that the hourly rates are reasonable and justifiable under the disaster conditions;

(e) Documents the terms of the contract (including mutual aid contracts); and

(f) Monitors contractors and keeps good records of work performed.

Category of Work

FEMA characterizes work authorized under sections 403, Essential Assistance, and 407, Debris Removal, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) as emergency work (Categories B and A, respectively) and under section 406, Repair, Restoration, and Replacement of Damaged Facilities, as permanent work (Categories C-G). Category F refers to the permanent repair of utility systems. RECs, municipal utilities, and public power districts work to restore power to customers as soon as possible following disasters. Most repairs are permanent in nature. FEMA categorizes electric utility restoration work as follows:

1. FEMA will characterize all temporary work that RECs, municipal utilities, and public power districts perform to restore power to all facilities capable of receiving it, as Category B, emergency work. In these situations, the RECs, municipal utilities, and public power districts make permanent repairs later to bring the damaged components into compliance with appropriate codes and standards.

2. FEMA will characterize work that RECs, municipal utilities, and public power districts perform to restore the damaged facilities to pre-disaster condition in accordance with applicable codes and standards as Category F, permanent work. RECs, municipal utilities, and public power districts can complete permanent repairs immediately after the disaster occurs or after temporary repairs are completed (see item 1 above).

Replacing Conductors

44 CFR §206.226, Restoration of damaged facilities, authorizes reimbursement for "… work to restore eligible facilities on the basis of the design of such facilities as they existed immediately prior to the disaster …" in accordance with adopted codes and standards. FEMA recognizes local, state, and national codes (for example, the National Electrical Safety Code and RUS standards and specifications for materials, equipment, and construction, which are applicable regardless of funding source) as appropriate when determining eligible cost to repair or replace damaged electrical facilities.

Establishing Pre-Disaster Condition

Applicants should provide the following information to establish pre-disaster condition of their facilities:

1. Certification of the pre-disaster condition and capacity of the conductor from a licensed professional engineer who has direct experience with the damaged electrical transmission or distribution system. Records providing satisfactory evidence of the condition and capacity of the conductor as it existed prior to the disaster. The certification may be supplemented by a professional engineering evaluation.
2. If available, copies of construction work plans demonstrating the utility's past practices and current/future projects.
3. If required by RUS, a copy of any corrective action plans submitted to RUS in compliance with 7 CFR §1730.25, Corrective action (RUS borrowers only).

Criteria for Conductor Replacement

Determining the disaster-related damages to some components (for example, poles, guys, and cross-arms) of an electrical transmission or distribution system can usually be accomplished by visual inspection. However, determining the full extent of disaster-related damages to conductors, and the appropriate method to repair the damages, is more challenging, particularly with older systems. FEMA considers a conductor eligible for replacement when it is stretched beyond the point where it can be effectively repaired and re-sagged through predictable modeling to meet appropriate clearances, sag and tension, and to meet pre-disaster reliability. A conductor is beyond the point where it can be effectively

repaired when one or more of the following criteria exist within a line section:

1. 25% or more of the conductor spans are damaged. Damage is defined as broken conductors, broken strands, the existence of new (disaster-related) splices, and/or if the conductor is severely pitted, burned, kinked, or damaged in other ways.
2. 30% or more of the line spans are visibly out of sag or do not meet clearances (for example, the conductor does not meet clearance requirements for conductor-to-conductor or conductor-to-ground).
3. 40% or more of the poles were replaced or need to be replaced or plumbed (straightened) due to the disaster.
4. 40% or more of the supporting structures have a disaster-related damaged component (for example, x-arms, braces, pin, ties, insulators, guys/anchors, or poles).
5. The sum of the percentages of the above criteria is 65% or more.
6. Other additional compelling information provided by a licensed professional engineer.

Replacement Conductor

FEMA will fund eligible work in accordance with 44 CFR §206.226, Restoration of damaged facilities. The use of #2 Aluminum Conductor Steel Reinforced (ACSR), however, is considered the lower cost equivalent to replace conductor with equal or lesser amperage capacity, such as copper weld conductor (CWC), hard and soft drawn copper wire, smaller ACSR, and Amerductor. When such conductor is replaced with #2 ACSR, FEMA will fund adjustments of span lengths and pole heights to meet appropriate design requirements.

If FEMA determines that the conductor is eligible for replacement, FEMA will fund the use of #2 ACSR as the lower cost equivalent replacement of conductor with equal or lesser amp capacity (for example, copper weld conductor (CWC), hard and soft drawn copper wire, and smaller ACSR, and Amerductor). If the existing spacing of poles exceeds the spacing required for the new conductor, FEMA will fund the installation of additional poles and components as required to meet appropriate design requirements.

If disaster damaged conductor does not qualify for replacement, the damaged line section is eligible for repair only.

Hazard Mitigation

FEMA provides hazard mitigation funding under Section 404, Hazard Mitigation, and Section 406, Repair, Restoration, and Replacement of Damaged Facilities, of the Stafford Act. The State manages the Section 404 Hazard Mitigation Grant Program and establishes the funding priorities for the program.

FEMA will evaluate and fund Section 406 hazard mitigation projects to protect disaster-damaged components of facilities. FEMA supports funding cost-effective hazard mitigation measures for electrical transmission and distribution facilities. In order to be eligible, hazard mitigation measures under Section 406 of the Stafford Act:

1. Must be appropriate to the disaster damage and must prevent future damage similar to that caused by the declared event.
2. Must be applied only to the damaged element(s) of a facility. This criterion is particularly important when conducting repairs to a portion of a system.
3. Cannot increase risks or cause adverse effects to the facility or to other property.
4. Must consist of work that is above and beyond the eligible work required to return the damaged facility to its pre-disaster design. Upgrades required to meet current codes and standards, however, are not considered hazard mitigation measures for purposes of the PA Program and have different eligibility criteria.

FEMA staff must review and approve hazard mitigation measures prior to implementation to ensure eligibility, technical feasibility, environmental and historic preservation compliance, and cost effectiveness. FEMA may fund the use of "wind-motion resistant conductor" as effective hazard mitigation, when conductor segments qualify for replacement.

Code or standard upgrades that FEMA determines do not meet the five criteria listed in 44 CFR §206.226(d), Restoration of damaged facilities, Standards, but which will enhance a facility's ability to resist similar damage in a future disaster, may be eligible for funding under Section 406 hazard mitigation (see FEMA Disaster Assistance Policy DAP9526.1, Hazard Mitigation Funding under Section 406 of the Stafford Act). For example, increasing the size or changing the type of conductor for hazard mitigation purposes may be eligible for FEMA reimbursement provided it is both viable and cost-effective.

Cost effectiveness is defined as:

1. Up to 15% of the total eligible cost of eligible repairs; or
2. Up to 100% of eligible repair costs for measures listed in Appendix A of DAP9526.1; or
3. A benefit-cost ratio of 1 or greater.

A non-exhaustive list of typical hazard mitigation measures for electrical systems includes the following:

Sample Mitigation Measure	Justification

Installing additional poles to support transformers	100%, listed in Appendix A of DAP9526.1
Installing guy-wires	100%, listed in Appendix A of DAP9526.1
Providing looped distribution service or other redundancies to critical facilities	100%, listed in Appendix A of DAP9526.1
Elevating pad-mounted transformers above BFE (or ABFE where applicable)	100%, listed in Appendix A of DAP9526.1
Replacing damaged poles with higher-rated poles of the same or different material	100%, listed in Appendix A of DAP9526.1
Cross bracing on H Frame Poles	100%, listed in Appendix A of DAP9526.1
Removing large diameter communication lines	100%, listed in Appendix A of DAP9526.1
Upgrade conductor to Wind-Motion Resistant Conductor (e.g., T2 ACSR)	15% of the total eligible cost of eligible repairs
Mid span poles (not specified by code)	15% of the total eligible cost of eligible repairs

Rural Utility Service (RUS) Bulletins

In order for the costs of Federal, State, and local repair or replacement standards which change the pre-disaster construction of a facility to be eligible, 44 CFR §206.226(d), Restoration of damaged facilities, Standards, requires that the standards must:

1. Apply to the type of repair or restoration required;
2. Be appropriate to the pre-disaster use of the facility;
3. Be found reasonable, in writing, and formally adopted and implemented by the State or local government on or before the disaster declaration date, or be a legal Federal requirement applicable to the type of restoration;
4. Apply uniformly to all similar types of facilities within the jurisdiction of the owner of the facility; and
5. For any standard in effect at the time of a disaster, it must have been enforced during the time it was in effect.

Under the authority of the Rural Electrification Act of 1936, the United States Department of Agriculture RUS, Electric Programs Division, makes direct loans and guarantees loans to electric utilities to serve customers in rural areas. Rural electric cooperatives use the loans and loan guarantees to finance construction of electric distribution, transmission, and generation facilities. Through these loans, the Federal government is the majority note-holder for approximately 700 electric systems in 46 states. In accordance with 7 CFR 1724.1(b), Electrical Engineering, Architectural Services and Design Policies and Procedures, all borrowers, regardless of funding sources, are required to comply with RUS requirements for new construction design standards, and the use of RUS accepted material on electric systems.

On July 1, 2005, RUS published Bulletin 1742D-106, Considerations for Replacing Storm-Damaged Conductors, The bulletin provides guidelines to assist rural electric cooperatives in making expedient decisions on whether to repair or replace damaged conductors after disasters. FEMA has reviewed this bulletin and determined that it does not meet the definition of a code or standard as described in 44 CFR §206.226(d). Therefore, FEMA will not accept RUS Bulletin 1742D-106 as a basis for replacing damaged conductors.

To date, rural electric cooperatives have not cited other RUS Bulletins to support their requests for the replacement of conductors. FEMA will evaluate other RUS Bulletins on a case-by-case basis.

Repair of Collateral Damage

The repair of damage to eligible facilities caused during the performance of eligible work is reimbursable under the Public Assistance Program. If rural electric cooperatives, municipal utilities, or public power districts damage their own or other public property while performing emergency repairs to their facilities, the cost to repair the damage may be eligible (see DAP9525.8, Damage to Applicant-Owned Equipment). Rural electric cooperatives often obtain easements from private landowners to access and maintain their transmission and distribution facilities. If private property easements are damaged while making repairs to the disaster-damaged facilities (for example, ruts on the property), the repair of the damage to the private property is eligible for FEMA Public Assistance reimbursement. Applicants shall demonstrate legal responsibility for the repair in the form of a written or statutory easement with an express legal responsibility to repair the damage.

_____ _____

Elizabeth A. Zimmerman Date
Assistant Administrator
Disaster Assistance Directorate

Conductor Replacement Criteria

Frequently Asked Questions

1. What is a span?

   A span is the distance between two poles.

2. What is a line section?

   A line section is a group of contiguous spans selected for evaluation. The applicant has flexibility in defining a line section. A line section could be a single span, all the spans between two deadend structures, all the spans on a feeder, all the spans on a tap or any other group of contiguous spans that are evaluated together.

3. What is Criterion 1 and how is it applied?

   This criterion relates to visible damage to the conductor in a line section. A conductor span with damage such as broken strands, splices or sleeves (installed as a result of the disaster), birdcaging, severe pitting, burns, kinks or other visible conductor damage is counted in this criterion. The number of conductor spans is calculated by multiplying the number of conductors per span by the number of spans. For example a three phase line section with three spans has 12 conductor spans (4 conductors x 3 spans = 12). If a single conductor span has damage in more than one location it still only counts as one damaged conductor span. If 25% or more of the of the total conductor spans in a line section have visible damage as a direct result of the disaster, then the conductors of that line section are considered eligible for replacement.

4. What is Criterion 2 and how is it applied?

   This criterion relates to conductor elongation or stretch in a line section. Any conductors in a span that are out of sag or do not meet clearance requirements as a direct result of the disaster are counted in this criterion. If more than one conductor in a span is out of sag or does not meet clearance requirements it still counts as just one span. This evaluation does not require precise measurement of the conductor temperature or actual sag or clearances. This determination is to be made using the good judgment of a qualified electrical inspector. If 30% or more of the total spans in a line section are visibly out of sag or do not meet clearance requirements as a direct result of the disaster, then the conductors of that line section are considered eligible for replacement.

5. What is Criterion 3 and how is it applied?

   This criterion is related to damage to the poles supporting the conductor in a line section. If a

pole was replaced, is in need of replacement or is in need of plumbing (straightening) as a direct result of the disaster, then it counts in this criterion. A pole is considered to be in need of straightening if it is leaning such that it is unsafe to climb. If 40% or more of the total poles in a line section meet this criterion then the conductors in that line section are considered eligible for replacement.

6. What is Criterion 4 and how is it applied?

This criterion relates to damage to the supporting structure other than the poles. If the supporting structure has damage such as a broken crossarm, broken support brace, bent pin, broken tie, broken insulator, broken guy or pulled anchor as a direct result of the disaster then that support structure is counted in this criterion. If more than one element of the support structure is damaged it still only counts as one damaged support structure. If a pole is counted under criterion 3 then the supporting structure should not be counted under criterion 4. If 40% or more of the total number of support structures in a line section are damaged as a direct result of the storm then the conductors of that line section are considered eligible for replacement.

7. What is Criterion 5 and how is it applied?

This criterion relates to the total damage to a line section. If the sum of the percentages calculated for criteria 1 through 4 is 65% or more then the conductors of that line section are considered eligible for replacement. It is possible that the sum of the percentages for criteria 1 through 4 could be more than 100%.

8. What is Criterion 6 and how is it applied?

This criterion is included to account for other methods of demonstrating that the conductor in a line section is damaged beyond repair. If this criterion is applied then supporting evidence must be documented to clearly describe the basis for the conclusion that the conductor in this line section was damaged as a direct result of the disaster and is not suitable for continued service. FEMA will make the final determination on a case-by-case basis.

FEMA CATEGORIES of WORK

FEMA identifies the Categories of Work as follows:

Emergency Work

Category A: Debris Removal
Clearance of trees and woody debris, building wreckage, sand, mud, silt, vehicles and other disaster-related material deposited on public property.
Note: **This includes tree clearing from power lines and rights-of-way. It may include poles.**

Category B: Emergency Protective Measures
Measures taken before, during and after a disaster to save lives, protect public health and safety, and protect improved public and private property. **Clearing roads, protecting lines and electric control centers are included. FEMA assumes that this period will last only 70 hours so longer times will require your proof that service was not restored until later.**
Note: **Notify TEC and/or OEM if the emergency time is passing the 70 hour time limit.**

Notes:

1) In Categories A & B, FEMA assumes that Co-op employees would be doing this work during regular duty hours, so they only pay overtime for any cooperative employee doing this work. However, FEMA will pay all costs for contractors or temporary hires to do this work.

2) FEMA requires "Monitors" to supervise debris contractors. Cooperatives should provide this supervision to insure re-imbursement of time and material contracts. Monitor expense is re-imburseable expense. Daily diaries should be kept on all supervision of time and material contractors.

Permanent Work

Category C: Roads and Bridges
Category D: Water Control Facilities

Category E: Buildings and Equipment
This category includes repair or replacement of buildings, including their contents and systems, heavy equipment, and vehicles.

Category F: Utilities
Repair of water treatment and delivery systems, **power generation facilities and distribution lines**, and sewage collection and treatment facilities.

Category G: Parks, Recreational Facilities and Other Items

Repair and restoration of parks, playgrounds, pools, cemeteries, beaches and other work not characterized adequately in Categories A-F above. Natural or unimproved areas are not eligible.

Notes: 1) Unlike Categories A & B, FEMA will pay all costs of the Federal share (which means 75% of the cost of regular time for employees, equipment and contractors). **(2) FEMA expects that all contractors have signed formally bid contracts.** However, if a Cooperative bids 10 contractors with 10 different bids and needs all 10 contractors, the Co-op may use them, BUT needs to retain bidding documents and have an explanation of the Co-op's bidding procedures.

FEMA will NOT allow a cost-plus contract. They do NOT like time and material contracts past the first 70 hours. They prefer unit cost or lump-sum contracts. Co-ops may be able to keep contractors on a unit cost basis, especially continuing contract contractors. If Co-ops keep contractors on time and material contracts (at their own risk), Co-ops MUST provide daily supervision, preferably with diaries, to insure that productive work is being performed. All work done after service is restored, especially that triggered by Codes and Standards, should be competitively and formally bid.

CODES AND STANDARDS

When a facility must be repaired or replaced, FEMA may pay for upgrades that are necessary to meet specific requirements of current Codes and Standards. **The National Electric Safety Code is the Co-op's determining code. RUS Construction Standards and Bulletins and Co-op- specific written Standards will prevail.** Local Co-op Standards must be written and approved by at least the Manager/CEO (Board approval is recommended) in advance of the disaster and totally followed on a day-to-day basis. A sample "Standard" is attached.

FEMA's specific rules are:

For the cost of the upgrade to be eligible, the Code or Standard requiring the upgrade must:

1. Apply to the repair work being performed.
2. Be appropriate to the pre-disaster use of the facility.
3. Be reasonable, formally adopted in writing, and implemented prior to the disaster declaration date.
4. Apply uniformly to all facilities of the type being repaired within the applicant's jurisdiction.
5. Be enforced during the time that it was in effect.

DECLARATIONS

The President declares the emergency by county after initial damage assessment is done by State and County officials. FEMA requires approximately $1.11 per capita of state damage and $2.20 per capita of county damage to justify a declaration. Often it is the Electric Cooperatives that have sufficient damage to allow a county to be declared. Once a county is declared, FEMA record keeping should be initiated. Expenses in non-declared counties must be kept separate. Cost records by declared county are not required and may increase internal Co-op accounting costs.

PROJECT WORKSHEETS

FEMA authorizes re-imbursement by preparing one or several Project Worksheets (PW). Each Category of Work has its own PW(s). They may cover a specific project or a time period. Co-ops do not keep property records by county, so PWs need NOT be prepared by county. PWs over $1,000,000 go to FEMA's national office for approval and will be delayed.

DOCUMENTATION

Assign work order numbers for each Category of the disaster as soon as the possibility occurs for a FEMA-declared event. Verify the proper allocation of costs to these Work Orders.

Backup documents are required for ALL costs. Undocumented expenses will NOT be re-imbursed. Start early collecting all backup, including bills, invoices and timesheets showing each worker and contract employee and their equipment, including the hours worked, where worked (not just "Storm") and what was done. This is the source document for a Co-op's claim. Each should be reviewed and approved by the supervisor as legitimate.

Use the FEMA spreadsheets for time, equipment and employee benefits. A Co-op's computer records are 'as paid;' FEMA records are 'as eligible.' Employees may be reassigned and FEMA authorizes only the rate of the normal employee doing the assigned job, not necessarily what the employee is paid. Sometimes FEMA accepts only overtime costs. Some folks may not be working on the disaster. A spreadsheet of contractor invoices and expenses will suffice. Co-op computer printouts of material charges are acceptable.

FEMA thinks Co-op storeroom/warehouse employees' time charges are loaded into material charges and will disallow their time and equipment costs. Work with your Co-op's Project Officer to make this happen as an adder or multiplier.

Each Co-op employee thinks their only job is to get the lights back on as soon as possible safely, but this is not the case if a Co-op expects FEMA reimbursement. FEMA IS NOT INTERESTED IN GETTING ELECTRIC SERVICE RESTORED, EXCEPT TO EMERGENCY FACILITIES. BUT THEY ARE VERY INTERESTED IN PROPERTY DAMAGE AND CONTROLLING THESE COSTS, NOW AND IN THE FUTURE.

MATERIAL

In normal line construction, material costs approximate half the total project cost. But in disasters, labor costs are much larger. Each Co-op has rigorous material control practice in effect.

DO NOT reduce inventory tracking anytime during a disaster or it jeopardizes reimbursement. Material issue forms may prove clumsy during the height of confusion, but Cooperatives still have the responsibility for proper material control. Co-ops may elect to switch from individual material issue tickets that show what was issued and where it was going to "as built" staking sheets with "picking lists" generated from the material units. This is a valid method but must be properly maintained.

STAKING SHEETS

Staking sheets are a Co-op's normal record of construction expenditures and should be maintained throughout the disaster. It is very easy to ignore them at first and think that they can and will be done later, after the fact. Co-op staking engineers are a valuable resource to guide foreign crews, supervise construction, coordinate work and locate damage. All are reimbursable except to locate damage. Their time needs to be either a part of the permanent repair effort and/or recording in final staking sheet form, the repairs made or to be made. Staking sheets are the accounting vehicle that identifies the work done, where it was done and what material was used. These important and necessary documents allow funds to be moved from 'Construction Work In Progress' to 'Plant.' It can be easier to prepare them daily covering work done. If not, as soon as possible, apply the necessary resources to prepare them on all work done. Consider using other Co-op staking engineers or engineering consultants to actually prepare the staking sheets, not lists of work done or needed to be done. FEMA will not pay for looking for damage or surveys.

DONATED RESOURCES

Members, charitable organizations, the National Guard or friends and family donate valuable time, equipment and even food or it's preparation to help restoration efforts. FEMA will indirectly reimburse Co-ops for these donations IF the Co-op keeps adequate records of them. **Someone in the Co-op organization (Member Services, Manager, Disaster Coordinator) should encourage help and maintain lists of who did what, hours spent each day and what equipment or food was donated. Other than belated thank you letters, and if the FEMA Project Officer is told, this log will be used to calculate the Donated Resource credit the Cooperative will receive to reduce the 25% share of the project cost.**

ADMINISTRATIVE ALLOWANCE

The Stafford Act stipulates that each grant recipient (Co-ops) be provided an allowance to meet some costs of administrating and accounting for this grant. The allowance covers the direct and indirect costs of administering the FEMA grant. Examples of appropriate activities are:

Identifying damage;
Attending Applicant Briefings;
Completing forms necessary to request assistance;
Establishing files and providing copies of documentation;
Assessing damage, collecting cost data and developing cost estimates;
Working with State (OEM) officials during project monitoring and final inspection;
Preparing for audits.

Allowance is determined from a sliding scale found in FEMA manuals but approximates 2%. By law, the Cooperative is not required to submit documentation for its administrative allowance. .
Note: There is an Office of Management and Budget circular discussing Private Non-Profits (PNPs), such as Electric Cooperatives, administrative costs and accounting requirements. It is OMB Circular A-122 – "Cost Principles for Nonprofit Organizations" and can be found on the web at http://www.whitehouse.gov/omb/circulars/index-education.html.

FEMA ADVANCE FUNDS

FEMA rules require Co-ops to place Advance Funds and Immediate Needs Funds in NON-interest bearing accounts. Any interest over $100 earned in a calendar year must be returned to FEMA.

ADVANCED FUNDS

FEMA allows 75% of their 75% share of approved funds to be advanced if it is needed. Co-ops must explain the need (such as needed to continue repairs and restoration). Co-ops can get ALL their FEMA funds when 75% of the PW work is done, if it is requested.

IMMEDIATE NEEDS FUNDS (INF)

This early payment is intended for financial hardships. A Co-op's request for INF is approved by the Federal Coordinating Officer (FCO) and the State Coordinating Officer (SCO).

EXPEDITED PROJECT WORKSHEET

This is a method for funds to be advanced early in lieu of INF. This advances a Co-op 75% of the PW amount (FEMA's share) early.

PROJECT WORKSHEET PROBLEMS

Keep a copy of the original PW and compare it to the FEMA prepared PW. Co-ops may have to request this from OEM. Contact OEM over any changes. FEMA is required to explain any changes to grant fund recipients.

TIME EXTENSIONS

Emergency Work (Categories A & B) time limits are 6 months to get work done, with a possible 6-month extension granted by state OEM. Permanent work time limits are 18 months, with up to 30 months possible extension granted by OEM. Extension requests must be in writing to OEM and should be done BEFORE the time limit has expired. FEMA may require money returned if done after time limit (without approved extension).

ADDITIONAL DAMAGE

FEMA expects any additional damage, not covered on approved PWs, to be reported within 30 days after Applicant Briefing meetings. In a large disaster, Co-ops may not have even found all damage by that time. Keep OEM notified as more damage is discovered.

OVER-RUNS

Any changes in Scope or possible over-runs should be reported to OEM as soon as possible. Over-runs are scrutinized for possible non-reimbursement.

HAZARD MITIGATION

There are two types of Hazard Mitigation eligible for re-imbursement by FEMA. One is theoretically available anytime (Section 404) and it is administered at Texas Emergency Management. The other is specific disaster-related (Section 406) and approval must be obtained during or shortly after the disaster, with completion to be done within six months.

Hazard Mitigation, Section 406

Projects seeking approval under Section 406 need to strengthen the electric system so that less damage should be incurred in future, similar disasters. Unfortunately, Co-ops need to identify these desired improvement projects to the FEMA Project Officer before a Category "F" PW is approved. Cost justification is not necessary at that time.

Section 406 is a source for funding of cost-effective measures that would reduce or eliminate the threat of future damage to a facility damaged during a disaster**. These measures MUST apply only to the damaged elements of a facility in the current disaster, rather than to other, undamaged parts of the facility or the entire system.**

Section 406 mitigation measures are considered part of the total eligible cost of repair, restoration, reconstruction, or replacement of a facility. Co-ops may not get funds approved and spend them on alternate projects or improved projects if a new replacement facility is involved.

Upgrades required to meet applicable Codes and Standards are NOT "mitigation measures" because these measures are a part of eligible restoration work. However, some Cooperatives have had ruined copper wire replacement done as 406 mitigation. It should have been Category "F," Codes and Standards.

PROJECT GUIDANCE – FEMA RR POLICY # 9526.1
Attached (signed August 13, 1998)
Hazard Mitigation Funding Under Section 406 (Stafford Act)

In this internal policy, several suggested appropriate projects are listed. The electric power distribution recommendations are:

"**E**." **ELECTRIC POWER DISTRIBUTION:**

1) **Pad mounted transformers – elevating above the base flood elevation, or lowering them or burying them in non-flood, high wind areas;**
2) **Using multiple poles to support transformers;**
3) **Burying lines;**
4) **Anchoring or otherwise protecting fuel tanks from movement in a disaster;**
5) **Replacing damaged poles with higher class pole, or with a different material pole such as replacing wood poles with spun concrete;**
6) **Adding guy wire or other additional support to power lines;**
7) **Removing large diameter communications lines from power poles;**
8) **Providing looped distribution service or other redundancies in the electrical service to "*critical facilities.*"**

FEMA's definition of "*critical facilities*" has been defined as:

Fire Departments
Police Departments
Hospitals
Nursing Homes
Waste Water Treatment Plants
Potable Water Treatment Plants
Emergency Operations Centers
Power Generation Plants

The Electric Cooperative's "Emergency Operations Center" may well qualify for these funds.

ELIGIBLE FACILITY

Mitigation funds are available only to damaged facilities in the current eligible declared disaster. Poles that were broken in a previous storm, but not the current storm, are NOT eligible. The only possible exception is when one pole of a highway crossing broke and the highway was blocked; mitigation may allow replacement of both structures and wire with added strength.

FEASIBILITY

Any project must be technically feasible and cost effective. The PAC can approve projects that would cost no more than 15% of the actual damaged facility cost. Projects that cost less than 100% of the damaged facility cost can be approved by the FEMA Public Assistance Officer after review by the 406 Hazard Mitigation Officer on site for the current disaster.

How FEMA views a Co-op's MITIGATION project for cost justification

FEMA performs a Cost vs. Benefit Analysis on mitigation projects. It goes like this.

1. The Co-op describes the proposed project.
2. The Co-op costs out the proposed project.
3. Determine the cost of the completed repair of the damaged section to be improved.
4. Calculate the average cost per pole of the disaster (total cost / # poles broken).
5. If project cost is less than 15% of average repair cost of facility, local PAC will approve project.
6. If project cost is less than average repair cost of facility, project should be approved.
7. Dig out previous costs to repair same line section.
8. FEMA will apply costs in "present worth" spreadsheets to justify expenditure. This favors recent repair costs but does give some weight to previous costs.
9. When project is approved, PW will be revised to include mitigation repairs.

EXAMPLE
For the current disaster, the average cost of each broken pole is $2,200.
The cost estimate to replace 2 poles, stronger wire and anchors crossing highway is $4,300.
Project should be approved. (2 poles x $2200= $4400 is greater than the mitigation project cost.)

FEMA 9526.1 Hazard Mitigation Funding Under Section 406 (Stafford Act), Appendix (4/29/98)

The following potential mitigation measures (reference: See Paragraph 7.c. of the policy) are determined to be cost-effective if they:

Do not exceed 100% of project cost,
are appropriate to the disaster damage,
will prevent future similar damage,
are directly related to the eligible damaged elements,
do not increase risks or cause adverse effects to the property or elsewhere,
meet standards of good professional judgment, and
otherwise meet requirements stipulated in the policy on Hazard Mitigation Funding Under Section 406 (Stafford Act), RR Policy Number: 9526.1 This list will continue to be evaluated and will evolve over time as new information becomes available.

1. Infrastructure Systems:

A. Drainage/crossings and bridges

1. Drainage structures - When drainage structures are destroyed, replacing the structure with multiple structures or a larger structure. However, structures need to be considered with regard to a total drainage system and should not be replaced without a watershed hydrology study.

2. Low span bridges - Demolish/replace damaged low span bridges or other crossings that act to collect debris, increase flooding, and/or can be severely damaged.

3. Low-water crossings - Where traffic counts are low, replacing bridges with carefully placed low-water crossings.

4. Debris traps - Installing traps upstream of a culvert to prevent culverts from becoming clogged by vegetation.

5. Gabion baskets, riprap, sheet piling, and geotextile fabric installation - Installation to control erosion.

6. Headwalls and wing walls - Installation to control erosion.

7. Restraining cables on bridges - Installation of cables to restrain a bridge from being washed off piers or abutments.

B. Sanitary and storm sewer systems

1. Access covers - When feasible, access covers can be elevated to the hydraulic grade line. There are a number of devices that prevent infiltration into access holes.

2. Sewer lines -
Repair, lining or encasement of damaged sections to prevent infiltration or structural collapse.
Relocating sections of damaged sewer lines to avoid damage from slip-out on roads or to avoid damage to lines crossing a stream or drainage area.

3. Pump stations -
Equipment or controls in a pump station that are subject to damage from the 100-year flood can be elevated. Pump station buildings can be dry flood proofed.
Installation of camlocks, transfer switches, and electrical panels to ease the hook-up of portable emergency generators.

C. Wastewater treatment plants
Elevation of equipment and controls that can be elevated easily.
Dry or wet floodproofing of buildings.

D. Potable water
1. Well systems -
Reduction of infiltration and subsequent contamination of the aquifer. Methods include casing the well or raising the elevation of the wellhead.
Elevation of controls, mechanical equipment, or electrical service associated with use of the well to protect them from flood damage.

2. Raw water intakes - Strengthening to prevent damage from erosion, scour and flood debris.

3. Water treatment plants -
Elevation of equipment and controls that can be elevated easily.
Dry floodproofing.

E. <u>Electric power distribution</u>

1. Pad-mounted transformers - elevating above the base flood elevation, or lowering them or burying them in non-flood, high-wind areas.

2. Using multiple poles to support transformers.

3. Burying lines.

4. Anchoring or otherwise protecting fuel tanks from movement in a disaster.

5. Replacing damaged poles with higher-class pole, or with a different material pole such as replacing wood poles with spun concrete.

6. Adding guy wire or other additional support to power lines.

7. Removing large diameter communication lines from power poles.

8. Providing looped distribution service or other redundancies in the electrical service to critical facilities.

F. **Above ground storage tanks - Strengthening or stiffening base connections.**

Underground pipelines - Installation of shut-off valves (based on accepted practice) so that damaged sections of pipeline can be isolated.

2. Buildings - General

A. General effects of flood damage -
Buildings substantially damaged under NFIP regulations - Repair, dry floodproofing, or elevation so they are protected to meet minimum NFIP regulations. If the building is replaced, rather than repaired, no Section 406 hazard mitigation funding is appropriate.
Buildings not substantially damaged under NFIP regulations - If technically feasible, dry floodproofing. Electrical panels, machinery rooms, emergency generators can be elevated above the BFE or dry floodproofed. If dry floodproofing is not feasible, these buildings should be wet floodproofed.

B. Roofs - Because the failure of a roof covering can lead to extensive damage to contents and operation, damaged roofing should never be replaced with the same material unless the cause of failure has been identified and corrected.
Low slope roofs - Replacement of the entire roof with a roof covering with a secondary membrane and a fully adhered roof covering that is not subject to progressive failure, such as a modified bitumen. Mechanically fastened insulation or membranes are not acceptable.
Curbing and flashing - Single membrane and built up roofs can be susceptible to progressive failure from flashing and curbing failure. These items should be inspected and repaired or replaced. National Roofing Contractors can provide technical advice.

Ballasted roof systems - Roof systems with gravel or other small ballast should be replaced with ballast of sufficient weight that it does not become airborne causing increased damages.
Roof-mounted equipment should be attached to a foundation that will resist expected wind forces.
Hurricane clips - Hurricane clips may be recommended for use in high-wind areas.

C. Shutters - In areas subject to hurricane winds, shutters are appropriate in the following areas:
All windows on critical facilities such as hospitals.
The lower floors of buildings with windows most likely to be struck by debris.
Windows of buildings with very high value contents that can be damaged by water (such as libraries and document centers).
Windows of buildings subject to debris from nearby ballasted roofs, metal buildings, manufactured homes or other structures likely to fail and result in debris.

D. Anchoring - Anchoring of mechanical and electrical equipment in critical facilities.

E. Flexible piping - Installation of flexible piping at pipe/conduit connections to equipment to accommodate expected movement in an earthquake.

F. Bracing -
Bracing of overhead pipes and electrical lines to meet seismic loads.
Bracing interior walls and partitions that could collapse, preventing safe exit from the building.
Bracing parapets, anchoring veneer or cladding, and bracing other non-structural elements that could collapse and cause injury or block safe exit of a building during an earthquake.
Replacement of glass - Replacement of glass (with break resistant material) in mullions to prevent breakage and fallout in the event of building movement.

The quote is located in the October 31, 2000, issue of RUS Bulletin 1724D-101B, System Planning Guide, Construction Work Plans. The cite is located on Page 4 in paragraph 2:1.2.1, and reads as follows:

2:1.2.1 RUS recommends that the following values be included in the design criteria:

- The maximum voltage drop on primary distribution lines not exceed 8 volts (120 volt base) after no more than 2 stages of re-regulation beyond the substation.

- The following equipment not be thermally loaded by more than the percentages shown:
  - Power Transformers – 105% of nameplate rating;
  - Substation and Line Regulators – 100% of nameplate rating;
  - Oil Circuit Reclosers – 70% of nameplate rating;

- Primary conductors not be loaded over 80% of their thermal rating (50% for major tie lines between substations);

- Conductors be replaced if found to contain an average of over 2 splices per phase per span in a 1 mile (1.6 kilometer) section; and

- No more than an average of 5 consumer outage hours, per consumer, per year, excluding outages caused by major storms or the power supplier, for the past 5 consecutive in any specific area.

August 2, 2002

Mr. Mel Schneider
FEMA – TAC

Dear Mr. Schneider:

SUMMARY:
All electric utilities in the United States are required to meet the minimum standards specified in the National Electrical Safety Code (NESC). The United States Bureau of Standards drafted this document in 1913. The Institute of Electrical and Electronic Engineers (IEEE) assumed duties of maintaining the NESC, revising it periodically, and reissuing it. The current version of the NESC is IEEE C2-2002. It applies to all firms or individuals transporting or distributing electrical energy. The Rural Utilities Service (RUS, formerly the Rural Electrification Administration) requires all electric and telephone cooperatives, regardless of their source of financing, to be bound by the NESC. No exceptions are allowed.

NESC Specifics:
Article 013-B1 in recent editions of the NESC specifies that "When an existing installation meets, or is altered to meet these rules, such installation is considered to be in compliance with this edition and is not required to comply with any previous edition." Article 013-B3 states: "Where conductors or equipment are added, altered, or replaced **on an existing structure**, the structure or the facilities on the structure need not be modified or replaced if the resulting installation will be in compliance with... (a) the rules that were in effect at the time of the original installation..." This means that when the poles were broken by the ice storm and subsequently replaced, they were **no longer** the "original" or "existing" structures. Hence, no "grand-fathering" is possible; the current NESC edition applies. Additionally, the copper wire (mostly CWC copperweld or ammerductor) was permanently stretched beyond its designed tensile strength and is incapable of being re-tensioned to proper sag to meet loaded tension requirements of around 2,000 lbs.

NESC Requirements:

The current NESC (Table 232-1) now requires the following minimum clearances under any design condition: (A) Multi-grounded Neutral = 15.5 ft. (B) Primary (750-22,000 volts) = 18.5 ft.

Oklahoma is required to design electric lines for a minimum of ½-inch radial ice, and a 4 lb. per square foot wind load (NESC Article 250, Heavy Loading Districts). Although other parameters may apply for larger conductors, the vast majority of conductors damaged in the January 29-30 ice storm are classified as "small conductors" and the ice-loading requirement causes the most sag. Most systems in the affected area experienced 2-inch to 2.5-inch radial ice from this storm. Spans of 300 feet or over had ice weight that exceeded the design breaking strength of their attached conductors. Most broke, and thousands of poles also broke from the combined effects of ice weight and wind load. Re-tensioning of old copper wire, even in warm weather, has caused repeated breaking, often resulting in energized conductor going to the ground. When colder weather approaches this winter, the older copper wire will draw up, exceed its reduced breaking strength, and break again or cause splices to pull apart, thus causing more power outages and increasing the possibility of personal injury and/or equipment damage. In short, this extreme ice loading, stretching it well beyond its recovery ruined the old cooper wire.

Many Oklahoma utilities still have considerable copper wire, most installed in the early 1930's to the late 1950's. The industry switched to aluminum conductor, steel reinforced (ACSR) in the 1960's, and, primarily through lack of demand, hard drawn copper wire vanished from production a few years later. It remains in service in lightly loaded areas, and is operated at voltages from 7 KV to 15 KV. Predominately, the wire in service is #8A CWC (copperweld) or its equivalent, and this wire could carry up to 100 amps in new condition. The original design manuals for the copperweld wire show a 4-foot additional sag for the added ½-inch of ice in a 300-foot span. Existing sags that do not meet the 15.5 ft. + 4 ft. = 19.5 ft. (neutral) cannot meet NESC if the wire was new. Primary height requirement is 3 ft. more (18.5 ft. + 4 ft. = 22.5 ft.) under current code. A 400 ft. span requires an additional 5.5 ft. over the NESC minimums. Most of the severely damaged copper in the ice-damaged areas has only 13 – 14 feet of ground clearance. Replacement with ACSR wire at these long spans may not meet NESC, therefore larger ACSR wire OR shorter span lengths may be required to meet code, even on newly replaced poles that were placed in service during emergency power restoration efforts.

Wire weights, ampacities and breaking strengths:

Wire Type	**Wire Weight** (per 1000 ft.)	**Ampacity**	**Breaking Strength**
#8A CWC	74.3 lbs. / 1000 feet	100 amps	2233 lbs.
#6A CWC	102 lbs. / 1000 feet	140 amps	2585 lbs.
#4 (6/1) ACSR	57.4 lbs. / 1000 feet	140 amps	1830 lbs.
#4 (7/1) ACSR	67.1 lbs. / 1000 feet	140 amps	2288 lbs.
#2 (6/1) ACSR	91.3 lbs. / 1000 feet	190 amps	2790 lbs.
#2 (7/1) ACSR	107 lbs. / 1000 feet	190 amps	3525 lbs.
#1/0 (6/1) ACSR	145 lbs. / 1000 feet	250 amps	4280 lbs.

The NESC requires the electric utility to meet the above minimum standards; it does not specify how. Some utilities use taller poles with longer spans; some use shorter poles requiring shorter spans. Each utility develops minimum standard for wire size and pole height, each to be in accordance with NESC code. Poles can be 35 ft. in height, but 40 ft. is the more

popular size. Terrain variations can easily force the use of 40 ft. or taller poles. Minimum wire size can be from #4 ACSR to #2 ACSR, or even #1/0 ACSR, depending upon the following factors: (1) Anticipated amperage load; (2) Breaking strength needed to reduce sag; (3) Electrical impedance to reduce voltage drop and losses (bigger wire has less); (4) Price (wire is much cheaper when purchased in quantity; the industry is moving from the smaller #4 ACSR to #2 ACSR and #1/0); (5) Availability (when you need it, you have to use what is available from the market; industry determines what is produced and available); and (6) Ability to transport multiple wire reels to a construction site.

Cooperative Operating and Design Standards:
Most Oklahoma Electric Cooperatives have adopted a 40 ft., class 5 pole as a "standard." Some use a 35 ft.; class 5 poles, with shorter span lengths. Most use #4 ACSR as the smallest wire size (as replacement for copper wire), but many have opted for #2 ACSR because of higher ampacity and higher breaking strength. Some high-growth Cooperatives use nothing smaller than #1/0 ACSR. Whatever the wire chosen, the span lengths must be adjusted to meet the NESC for whichever pole height is selected. Pole class (diameter) is adjusted as well to meet NESC breaking strength requirements for the wire and span lengths selected.

Existing 400 ft. or greater span lengths in western Oklahoma cannot meet NESC requirements on 35 ft. poles using #4 ACSR. Some Cooperatives opt to use taller poles (40 ft.) to help meet this requirement. Some Cooperatives opt to use larger conductor (#2 ACSR or #1/0 ACSR) that can be pulled tighter, thus creating less sag and greater clearance to ground. Most Cooperatives are shortening their design span lengths to around 300 feet. One specification cannot fit all, because of terrain variations, etc. Each mile of line in damaged areas may require adjustment of pole heights and span lengths to make the chosen wire size meet provisions of the NESC. It is common for a utility to move to a larger wire in a given location in order to attempt to use existing, non-damaged poles. However, little can be done with 450 ft. spans except make them shorter. Shortening span lengths to around 300 ft. results in Cooperatives meeting the "Grade B" NESC requirements and improving survivability of the next natural disaster.

Natural disasters and Cooperative design standards:
Natural disasters are, unfortunately, common in Oklahoma, be it tornadoes, ice storms, severe winds or floods. Standard operating procedure for Cooperatives is to enable all available manpower (including contractors) into an affected area for at least a 48-hour period to get as much power restored as possible. Broken poles are replaced in place, or temporarily re-used if possible. The NESC is relaxed during these "emergency conditions," but as soon as is practical, and as the law requires, the electric system is returned to NESC minimums. Power restoration begins at the supply substation; with 3-phase feeder circuits restored first, and priority given to residential and life-threatening situation loads. Work continues until all power is restored in a safe and efficient manner. When all customers have power restored, the work then shifts to making permanent repairs and meeting NESC minimums. The repairs are not finished until all lines in storm-damaged areas meet the NESC. This may take several days, weeks, months, or in the case of this most recent ice storm disaster, years.

NOTE: *The following is a copy of a document that was compiled by Mr. Mel Schneider, a FEMA Technical Assistance Contractor (TAC) from FEMA Region VI. It was drafted in response to an inquiry made by Ms. Brenda*

*J. Black, Director, Response and Recovery Division, FEMA Region VI, regarding whether or not FEMA should allow reimbursement of expenses to eligible applicants (such as rural electric cooperatives) when replacement costs involve Codes and Standards issues. In this particular instance, FEMA ultimately **did** allow reimbursement of several Oklahoma rural electric cooperatives' expenses for the replacement of old copper-clad conductor, which was damaged as a result of severe ice storms in 2002. "Codes and Standards" dictated not only the replacement of the conductor, but also the establishment of new, shorter ruling spans (in the damaged areas ONLY) in order to meet current NESC overhead electric line clearance requirements. Cooperatives in Oklahoma were reimbursed for conductor replacement AND for additional poles that were required due to re-spanning. This was a major (and favorable) ruling issued by the FEMA TAC.*

FEMA-1401-DR-OK

1. Applicable Codes and Standards for Oklahoma Utilities.

All electric utilities in the United States are required to meet the minimum standards specified in the National Electrical Safety Code (NESC). The United States Bureau of Standards drafted this document in 1913. The Institute of Electrical and Electronic Engineers (IEEE) assumed duties of maintaining the NESC, revising it periodically and reissuing it. The current version of the NESC is IEEE C2-2002. It applies to all firms and individuals transporting or distributing electrical energy. The Rural Utilities Service (RUS, formerly the Rural Electrification Administration) requires all electric and telephone cooperatives, regardless of their source of financing, to be bound by the NESC. No exceptions are allowed.

2. Codes and standards compliance related to Electrical Power Systems.

The poles, conductors, insulators, cross arms, and miscellaneous hardware are all integrally related and must all be designed and constructed to form an electric system[1] that conforms to the NESC and RUS Regulations and Bulletins. It is important to note that the NESC only mandates the amount of clearance (sag) the conductors must have above a roadway and do not specifically address the type or size of the conductor material. Some utilities use taller poles with longer spans; some use shorter poles requiring shorter spans. Poles can be 35 ft. in height, but 40 ft. is the more popular size. Terrain variations can easily force the use of 40 ft. or taller poles. Each utility develops their standard for wire size and pole height, each to be in accordance with the NESC code. Wire size can be from #4 ACSR to #2 ACSR, or even #1/0 ACSR, depending on the following factors: (1) Anticipated amperage load; (2) Breaking strength needed to reduce sag; (3) Electrical impedance to reduce voltage drop and losses (bigger wire has less); (4) Price (wire is much cheaper purchased in quantity; the industry is moving from the smaller #4 ACSR to #2 ACSR and #1/0); (5) Availability (when you need it, you have to use what is available from the market; industry determines what is produced and available); (6) Ability to transport multiple wire reels to a construction site. Each utility may have a different standard based upon the listed factors but all claimed standards were reviewed, approved and enforced by RUS.

When one component of this system is destroyed its replacement may affect the rest of the system and may result in the modification of other components of the system. A conductor can be considered destroyed when it is stretched beyond its designed tensile strength and becomes so brittle that it cannot be re-tensioned to create the proper code-required sag distances. In addition, the conductor replacement may require the installation of additional or longer poles to meet the NESC requirement for sag distances.

Meeting the safety code (NESC) on sag requirements for any new conductor is the primary issue. If the new conductor is allowed, the safety requirements are mandatory and sag requirements must be met. There are several ways to meet the sag requirements such as (a) Add new poles to raise the conductor where the sag is too low; (b) Add higher poles to raise the conductor to meet sag requirements; (c) Use new wire that can be stretched tighter to meet sag requirements. Additional poles or higher poles are not being added to meet a standard relative to poles, but to assist the new conductor in meeting the safety requirements for sag.

3. **Review of the FEMA criteria for Codes and Standards.**

- The code or standard must apply to the repair work being performed.

When a span of conductor is destroyed by the disaster event it is reasonable and proper to include any pole and cross arm modifications, within this span, necessary to meet the NESC. Other undamaged sections of the system are not eligible for repairs or modifications.

- **The code or standard must be appropriate to the pre-disaster use of the facility.**

The NESC applies to the damaged sections of the electrical system by State Law.

- **The code or standard must be reasonable, formally adopted in writing, and implemented prior to the disaster declaration.**

° All electrical utilities are required to conform to the NESC by State Law.

° RUS Regulations and Bulletins: 7 CFR Part 1710-1794

° Sec. 1726.20 Standards and Specifications.

All materials, equipment, and construction must meet the minimum requirements of all applicable RUS standards and specifications. (See Part 1728, Electrical Standards and Specifications for Materials and Construction, of this chapter, which is applicable regardless of the source of funding.) The materials and equipment must be year 2000 compliant, as defined in 7 CFR 1710.112 (c).

° Sec. 1728.20 Establishment of standards and specifications.

(a) National and other standards. RUS will utilize standards of national standardizing groups, such as the American National Standards Institute (ANSI), American Wood Preservers' Association (AWPA), the various national engineering societies and the National Electrical Safety Code (NESC), to the greatest extent practical. When there are no national standards or when RUS determines that the existing national standards are not adequate for rural electric systems, RUS will prepare standards for material and equipment to be used on systems of electric borrowers. RUS standards and specifications will be codified or listed in Sec. 1728.97, Incorporation by Reference of Electric Standards and Specifications. RUS will also prepare specifications for materials and equipment when it determines that such specifications will result in reduced costs, improved materials and equipment, or in the more effective use of engineering services.

(b) Deviations from Standards. No member of the RUS staff will be permitted to authorize deviations from the standard specifications, or to establish or change the technical standards, or to authorize the use of items that have not received acceptance by the Technical Standards Committees, except as provided for under Sec. 1728.70, or by authorization and/or delegation of authority by the Administrator of RUS.

(c) Category of Items. Items appearing in the List of Materials are listed by categories of generic terms, which are used in RUS construction standards incorporated by reference in Sec. 1728.97. RUS will establish and define these categories and will establish all criteria for acceptability within these categories.

- **The code or standard must apply uniformly to all facilities of the type being repaired within the applicant's jurisdiction.**

Summary of Recommendations for Reuse and/or Disposal of Wood Utility Poles

Special Consideration – Wood Utility Poles:
Please note that burning damaged wood utility poles is **PROHIBITED**. If poles are to be chipped, they **SHOULD NOT** be used for mulch or bedding purposes. Chipped utility poles **MUST** be disposed of at a permitted Subtitle D landfill (list attached).

The following is a list of options for the reuse and/or disposal of damaged wood utility poles, beginning with the **PREFERRED** option:

REUSE:

1. The utility companies may choose to contact the landowner where the damaged utility poles are located and offer the poles to them. If this is the case and the landowner accepts the poles, they are not subject to DEQ regulation. (**NOTE:** It is recommended that, when possible, a Release Form be signed by the person who accepts the poles from the utility, and that the utility maintain a copy of such Release Form as part of its permanent records relating to disaster funds reimbursement activities.)

2. The utility company can transport the damaged poles to one of their facilities and offer the poles for reuse. Poles taken for reuse do not fall under DEQ jurisdiction or regulation. (**NOTE:** Again, a signed release form is recommended.)

3. The utility company can transport the damaged poles to a site approved by the "Emergency Disposal Site Evaluation Registry" procedure to stockpile and offer the poles for reuse from this site. The "Emergency Disposal Site Evaluation and Registry" form must be completed, submitted and approved by DEQ before a disposal site is used. The section, "Guidelines for Emergency Burning, Burial and/or Stockpiling of Solid Waste," outlines site criteria. (This is attached as a part of the "Emergency Disposal Site Evaluation and Registry" form.)

DISPOSAL:

1. The preferred method of disposal is to dispose of the poles at a permitted Subtitle D landfill Contact the landfill prior to transport for specific instructions. (**NOTE:** Permitted C and D landfills **cannot accept** the utility's wood poles for disposal.)

2. Damaged poles may be buried at an approved site using the "Emergency Disposal Site Evaluation and Registry" procedure. The "Emergency Disposal Site Evaluation and Registry" form must be completed, submitted and approved by DEQ before a disposal site is used. The section "Guidelines for Emergency Burning, Burial and/or Stockpiling of Solid Waste" outlines site criteria. Please review the criteria in this section when locating a potential disposal site. The bottom of the pit must be at least five feet (5 ft.) from known groundwater. It is preferred that the burial site be in clay or clay loam soils. The burial site **CANNOT** be in sandy soils. The local DEQ environmental specialist **MUST** visit and approve the site before it is used. Please

DO NOT submit the form without the DEQ environmental specialist's signature. If a city or town does not own the site, the attached "Legal Access Agreement" must also be completed.

SITE SELECTION:
Local DEQ environmental specialists can assist you with finding a suitable site and complying with any state and federal environmental requirements. Staging areas and disposal sites can be located on publicly owned property or on private property. (A sample "Legal Access Agreement" is attached in the event that the Cooperative has to use private land for a staging area or a disposal site.) All sites used as staging areas or emergency disposal sites must be registered with FEMA using the attached "Emergency Disposal Site Evaluation and Registry" form.

Additional "Legal Access Agreement" forms and "Emergency Disposal Site Evaluation and Registry" forms may be obtained from local DEQ offices (see attached list).

NOTE: If wood utility poles are to be "chipped," they **MUST** be disposed of in a Subtitle D landfill.

SAMPLE RELEASE FORM #2

I hereby acknowledge receipt of and accept full ownership of _____ used electrical poles from _____ (the "Cooperative") upon the following terms and conditions:

1. The used poles delivered hereunder consist of the following number and size:

Number of Poles	Size	Class

2. The handling fee for said poles is $_____ in hand paid, receipt of which is hereby acknowledged by the Cooperative.

3. All poles obtained hereunder are "as is," without any warranties of merchantability or fitness for any general or particular use or purposes. I assume responsibility, at any expense, to have these poles inspected by an independent expert engaged in such testing to determine the suitability or fitness of the poles for any desired use.

4. I acknowledge that the Cooperative has advised me that the poles have been treated with preservatives and other chemicals that are subject to control by the EPA, and I have been advised that these poles may contain chemicals and materials that are potentially hazardous to me and any other person or thing coming in contact with these poles. I assume responsibility, at my expense, to have these poles tested to determine the existence of any such hazardous chemicals or materials. I acknowledge that the Cooperative has provided me with a copy of the EPA-approved Consumer Information Sheet relating to creosote, penta-chlorophenol and arsenic, attached as Exhibit I to this release. I further acknowledge that I have read and understand the information set forth in Exhibit I.

5. I specifically agree to hold the Cooperative harmless from any and all liability from any cause whatsoever arising out of the use of these poles subsequent to the removal thereof from the Cooperative premises, and agree to indemnify the Cooperative from any liability in any way arising from and after their removal from the Cooperative's premises. I further agree, that in the event any legal action is brought against the Cooperative arising out of the use of these pole(s) by me, any subsequent owner, or any person, claiming damages by virtue of or in any manner arising out of the use of the pole(s), or damages therefrom, that I agree to hold the Cooperative harmless from any and all costs, charges, expenses, attorney's fees and judgments which may be imposed upon or incurred by the Cooperative in any manner arising out of such claim or such litigation.

Signature:_____

Dated:_____

Acknowledged: _____
(The Cooperative)

By: _____

Environmental Considerations and Contacts

FEMA and DEQ

The Federal Emergency Management Agency (FEMA) assists communities in responding to and recovering from disasters. Part of FEMA's responsibility is ensuring that the requirements of numerous environmental and historical preservation laws and Executive Orders are met. **It is necessary for any applicant receiving FEMA assistance to obtain and comply with all applicable local, State and Federal laws, requirements and permits.** Please be aware that failure to comply might jeopardize a Cooperative's eligibility to receive Federal funding.

General Debris Management:
The DEQ's principal role is to offer advice to local officials relative to the various choices available for debris management. Municipal officials are free to determine which collection and disposal option best fits their situation. In an effort to expedite the debris removal and disposal process, the DEQ has issued a document entitled "Guidelines for Debris Management." This document identifies the advantages and disadvantages of the various disposal options and provides advice concerning interim measures. Once that decision has been made, the DEQ will assist local officials in carrying out that decision.

Communities considering disposal options that include stockpiling, burying or burning are encouraged to contact the DEQ for assistance in documenting compliance with applicable Federal laws and State guidelines. In some instances, local DEQ Environmental Specialists may have already contacted local officials

Once local officials and DEQ Environmental Specialists have made contact, DEQ employees are prepared to provide technical assistance to local officials by completing the state guidelines portion of the "Emergency Disposal Site Evaluation and Registry" form. Because compliance with Federal requirements associated with historic preservation and cultural resources is outside the scope of the DEQ, you will be asked to transmit the completed "Emergency Disposal Site Evaluation and Registry" form to the OAS. The OAS will examine its maps and records, complete its certification, forward the form to the SHPO for approval and then return the form to the local official. When the "Emergency Disposal Site Evaluation and Registry" form has been returned from the OAS, local officials must maintain this form as a part of their permanent files. Upon application for reimbursement, local officials must provide this form along with all other required documentation.

Local officials who have chosen to transport debris directly to an approved landfill or other approved disposal facility (dependent on waste type) are not required to have a completed "Emergency Disposal Site Evaluation and Registry" form in their application for reimbursement.

In summary, local officials who have chosen disposal options that include burning, burying or stockpiling must document compliance with applicable Federal laws in order to be eligible for Federal reimbursement. Completion of the "Emergency Disposal Site Evaluation and Registry" form is the most direct way to accomplish this documentation. The DEQ is ready to assist you with this documentation.

Asbestos: Demolition and renovation of any commercial or public structures, regardless of asbestos content, must be coordinated with the Texas DEQ, Air Emissions Division, to obtain a "National Emission Standards for Hazardous Air Pollutants" (NESHAP) permit. The applicant is responsible for obtaining and complying with all required permits.

Ground Water/Surface Water: The Ground Water Division of the Department of Environmental Quality (DEQ) protects ground water quality and minimizes existing and potential ground water contamination from other than hazardous wastes and chemical spills. Notification of any spill or breakage to existing systems or facilities for which discharge permits currently exist is required.

The Surface Water Quality Division of the DEQ performs all state certifications under Section 401 of Section 402 National Pollution Discharge and Elimination System (NPDES) permits issued by EPA and Section 404 permits issued by the U.S. Army Corps of Engineers.

Section 10 and 404 Permits
Sec. 404 of the Clean Water Act, and Sec. 10 of the Rivers and Harbors Act, applies to actions affecting waters of the United States. Both laws are administered by the U.S. Army Corps of Engineers. Examples of actions requiring permits include construction, demolition, and any dredging or filling in any part of surface water tributaries, including small streams, lakes, ponds, stock tanks, construction and mining pits, and wetlands. Obtaining permits is the responsibility of the applicant. Unless it is an emergency action, i.e., immediate threat to life or property, obtaining permits must be done prior to executing any physical disturbance action.

Historic Preservation and Cultural Resources
There are numerous historic structures or sites within the disaster area. They might be buildings, bridges, other structures or specific sites. Many of these structures or sites are not on the National Register of Historic Places, but might be eligible for the National Register, which is the trigger for concern under Section 106 of the National Historic Preservation Act. This law requires FEMA to coordinate projects with the State Historic Preservation Officer (SHPO). Any project receiving federal assistance that affects a structure 45 years old or older must have prior approval from the State Historic Preservation Office.

EMERGENCY DISPOSAL SITE EVALUATION AND REGISTRY

This form is to be used as a checklist for DEQ employees to assist those local officials who want to meet federal environmental requirements for reimbursement by FEMA. DEQ Environmental Specialists can assist local officials by completing the State guidelines portion. Local officials are responsible to send or fax this form to the State Historic Preservation Officer (SHPO)

City/Town to be served:
_____

Address:
_____City:_____ZipCode:_____

Telephone # _____Fax # _____County:
_____

Legal description/Lat-Long of site:
_____

Finding
Directions:_____
_____
_____
_____
_____

Name of site owner*:_____

** The City or Town must control the site, either through ownership or legal access agreement.*

GUIDELINES for EMERGENCY BURNING, BURIAL and/or STOCKPILING of SOLID WASTE

Located above the 100-year floodplain and Outside of known wetlands. (The floodplain map used for locating the site shall be an original Flood Insurance Rate Map prepared by the Federal Emergency Management Agency, a copy, of the Flood Prone Area Map prepared by the US Geological Survey or an equivalent constructed map that depicts the limits and elevations of any 100 year floodplain on or adjacent to the proposed site.)
Located at least ¼ mile from a public or private water supply (surface or ground). **If the site will be used only for the stockpiling, burning or disposal of tree limbs and brush the distance may be reduced from ¼ mile to 300 feet.**

If the site will receive any putrescible waste that may attract birds, is it located at least 5,000 feet (1,524 meters) from any airport runway used only by piston-engine aircraft, or within 10,000 feet (3,048 meters of any airport runway used by turbojet aircraft, except as may be approved by tile US Federal Aviation Administration.

Provisions are in place to ensure that hazardous waste, radioactive waste, regulated polychlorinated biphenyls (PCB waste, or regulated infectious wastes are excluded.

Public official understands that the burial site must be properly closed and covered with 3 feet of soil within 45 days.

All burning of solid waste will be located at least 500 feet (preferably ½ mile) from an occupied residence.

Provisions are in place to exclude the burning of rubber, plastics, asbestos, and other similar materials that produce unreasonable amounts of air contaminants.
Public official understands that burning must be controlled so that the smoke does not create a traffic hazard

LEGAL ACCESS AGREEMENT

THIS AGREEMENT is made on this _____ day of _____, 200___, by and between _____ ("Grantee") and _____("Grantor").

WHEREAS, Grantee desires to obtain the right and authority to conduct various activities including _____

DESCRIBE ACTIVITIES

_____

_____ on the property of the Grantor;

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, and other valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

1. **Use of Property.** Subject to the terms hereof, Grantor does hereby grant to Grantee the right to go upon and use the premises owned by Grantor and described as

_____
_____
_____
_____

LEGAL DESCRIPTION OF PROPERTY

to

_____
_____
_____
_____.

DESCRIBE ACTIVITES

2. **Term.** The rights granted to Grantee herein shall extend until _____
DATE

or until the Grantor terminates such rights in writing to:

_____
NAME AND ADDRESS

_____

_____

3. **Location of Activities.** Grantee shall conduct the activities at such locations on the Property as may be determined by Grantee with an intent of lessening damages to structures and other improvements thereon, as well as inconvenience to the Grantor.

4. **Contractors of Grantee.** Grantee may contract for the performance of the activities described herein with third parties. Any such party contracting with Grantee for the performance of such activities shall have the same rights and privileges as Grantee for the purpose of performing the contracted services.

5. **Ownership of Property.** The Grantor represents and warrants that it is the owner of the Property and has the right, power and authority to grant to Grantee the rights described herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date set forth above.

_____ _____

GRANTOR GRANTEE
Owner of Property Title
[Code of Federal Regulations]

[Title 7, Volume 11]
[Revised as of January 1, 2004]
From the U.S. Government Printing Office via GPO Access
[CITE: 7CFR1773]

[Page 989-990]

TITLE 7--AGRICULTURE
CHAPTER XVII--RURAL UTILITIES SERVICE, DEPARTMENT OF AGRICULTURE
PART 1773_POLICY ON AUDITS OF RUS BORROWERS--Table of Contents

Subpart B_RUS Audit Requirements

Sec. 1773.3 Annual audit.

(a) Each borrower must have its financial statements audited annually by a CPA selected by the borrower and approved by RUS as set forth in Sec. 1773.4.

(b) Each borrower must establish an annual as of audit date within twelve months of the date of receipt of the first advance of funds from grants and insured and guaranteed loans approved by RUS and RTB and must prepare financial statements as of the date established.

(c) Until all loans made or guaranteed by RUS have been repaid, the borrower must furnish three copies of the auditor's report, report on compliance and on internal control over financial reporting, and management letter to RUS within 120 days of the as of audit date.

(d) A borrower that qualifies as a unit of state or local government or Indian tribe as such terms are defined in the Single Audit Act of 1984 (31 U.S.C. 7501 et seq.), the Single Audit Act Amendments of 1996 (31 U.S.C. 7505 et seq.) and OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations (copy available from the Executive Office of the President, Publication Services, 725 17th St.,
NW., Suite 2200, Washington, DC 20502; 202-395-7332), must comply with this part as follows:

(1) A borrower that expends $300,000 or more in a year in Federal awards must have an audit performed and submit an auditor's report meeting the requirements of the Single Audit Act of 1984 and the Single Audit Act Amendments of 1996.
(2) A borrower that expends less than $300,000 in Federal awards during the year must have an audit performed in accordance with the requirements of this part.
(3) A borrower must notify RUS, in writing, within 30 days of the as of audit date, of the total Federal awards expended during the year and must state whether it will have an audit performed in accordance with the Single Audit Act of 1984 and the Single Audit Act Amendments of 1996, or this part.
    (i) A borrower that elects to comply with this part must select a CPA that meets the qualifications set forth in Sec. 1773.5.
    (ii) If an audit is performed in accordance with the Single Audit Act of 1984 and the Single Audit Act Amendments of 1996, an auditor's report that meets the requirements of the Single Audit Act of 1984, and the Single

Audit Act Amendments of 1996, will be sufficient to satisfy that borrower's obligations under this part.

(e) OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations **does not apply** to audits of RUS electric and telecommunications cooperatives and commercial telecommunications borrowers.

[56 FR 63360, Dec. 3, 1991, as amended at 59 FR 659, Jan. 6, 1994; 63 FR 38722, July 17, 1998; 66 FR 27835, May 21, 2001]

*(**NOTE:** Words in **bold** means emphasis added by TEC Loss Control Advisory Committee.)*

[Code of Federal Regulations]
[Title 44, Volume 1]
[Revised as of October 1, 2000]
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[Page 151-172]

TITLE 44--EMERGENCY MANAGEMENT AND ASSISTANCE

CHAPTER I--FEDERAL EMERGENCY MANAGEMENT AGENCY AND COOP AGREEMENTS TO STATE AND LOCAL GOVERNMENTS--Table of Contents
PART 13--UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS

Subpart C--Post-Award Requirements

Financial Administration

Sec. 13.20 Standards for financial management systems.

(a) A State must expand and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to--

(1) Permit preparation of reports required by this part and the statutes authorizing the grant, and

(2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

(b) The financial management systems of other grantees and subgrantees must meet the following standards:

(1) Financial reporting. Accurate, current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant or subgrant.

(2) Accounting records. Grantees and subgrantees must maintain records which adequately identify the source and application of funds provided for financially-assisted activities. These records must contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.

(3) Internal control. Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees and subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.

(4) Budget control. Actual expenditures or outlays must be compared with budgeted amounts for each grant or subgrant. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant or subgrant agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.

(5) Allowable cost. Applicable OMB cost principles, agency program regulations, and the terms of grant and subgrant agreements will be followed in determining the reasonableness, allowability, and allocability of costs.

(6) Source documentation. Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subgrant award documents, etc.

(7) Cash management. Procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by grantees and subgrantees must be followed whenever advance payment procedures are used. Grantees must establish reasonable procedures to ensure the receipt of reports on subgrantees' cash balances and cash disbursements in sufficient time to enable them to prepare complete and accurate cash transactions reports to the awarding agency. When advances are made by letter-of-credit or electronic transfer of funds methods, the grantee must make drawdowns as close as possible to the time of making disbursements. Grantees must monitor cash drawdowns by their subgrantees to assure that they conform substantially to the same standards of timing and amount as apply to advances to the grantees.

(**c**) An awarding agency may review the adequacy of the financial management system of any applicant for financial assistance as part of a preaward review or at any time subsequent to award.

Sec. 13.21 Payment.

(a) Scope. This section prescribes the basic standard and the methods under which a Federal agency will make payments to grantees, and grantees will make payments to subgrantees and contractors.

(b) Basic standard. Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or subgrantee, in accordance with Treasury regulations at 31 CFR part 205.

(**c**) Advances. Grantees and subgrantees shall be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by the grantee or subgrantee.

(d) Reimbursement. Reimbursement shall be the preferred method when the requirements in paragraph (**c**) of this section are not met. Grantees and subgrantees may also be paid by reimbursement for any construction grant. Except as otherwise specified in regulation, Federal agencies shall not use the percentage of completion method to pay construction grants. The grantee or subgrantee may use that method to pay its construction contractor, and if it does, the awarding agency's payments to the grantee or subgrantee will be based on the grantee's or subgrantee's actual rate of disbursement.

(e) Working capital advances. If a grantee cannot meet the criteria for advance payments described in paragraph (**c**) of this section, and the Federal agency has determined that reimbursement is not feasible because the grantee lacks sufficient working capital, the awarding agency may provide cash or a working capital advance basis. Under this procedure the awarding agency shall advance cash to the grantee to cover its estimated disbursement needs for an initial period generally geared to the grantee's disbursing cycle. Thereafter, the awarding agency shall reimburse the grantee for its actual cash disbursements. The working capital advance method of payment shall not be used by grantees or subgrantees if the reason for using such method is the unwillingness or inability of the grantee to provide timely advances to the subgrantee to meet the subgrantee's actual cash disbursements.

(f) Effect of program income, refunds, and audit recoveries on payment. (1) Grantees and subgrantees shall disburse repayments to and interest earned on a revolving fund before requesting additional cash payments for the same activity.

(2) Except as provided in paragraph (f)(1) of this section, grantees and subgrantees shall disburse program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.

(g) Withholding payments. (1) Unless otherwise required by Federal statute, awarding agencies shall not withhold payments for proper charges incurred by grantees or subgrantees unless--

(i) The grantee or subgrantee has failed to comply with grant award conditions or (ii) The grantee or subgrantee is indebted to the United States.

(2) Cash withheld for failure to comply with grant award condition, but without suspension of the grant, shall be released to the grantee upon subsequent compliance. When a grant is suspended, payment adjustments will be made in accordance with Sec. 13.43(**c**).

(3) A Federal agency shall not make payment to grantees for amounts that are withheld by grantees or subgrantees from payment to contractors to assure satisfactory completion of work. Payments shall be made by the Federal agency when the grantees or subgrantees actually disburse the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.

(h) Cash depositories. (1) Consistent with the national goal of expanding the opportunities for minority business enterprises, grantees and subgrantees are encouraged to use minority banks (a bank which is owned at least 50 percent by minority group members). A list of minority owned banks can be obtained from the Minority Business Development Agency, Department of Commerce, Washington, DC 20230.

(2) A grantee or subgrantee shall maintain a separate bank account only when required by Federal-State agreement. (i) Interest earned on advances. Except for interest earned on advances of funds exempt under the Intergovernmental Cooperation Act (31 U.S.**C**. 6501 et seq.) and the Indian Self-Determination Act (23 U.S.**C**. 450), grantees and subgrantees shall promptly, but at least quarterly, remit interest earned on advances to the Federal agency. The grantee or subgrantee may keep interest amounts up to $100 per year for administrative expenses.

Sec. 13.22 Allowable costs.

(a) Limitation on use of funds. Grant funds may be used only for:

(1) The allowable costs of the grantees, subgrantees and cost-type contractors, including allowable costs in the form of payments to fixed-price contractors; and

(2) Reasonable fees or profit to cost-type contractors but not any fee or profit (or other increment above allowable costs) to the grantee or subgrantee.

(b) Applicable cost principles. For each kind of organization, there is a set of Federal

principles for determining allowable costs. Allowable costs will be determined in accordance with the cost principles applicable to the organization incurring the costs. The following chart lists the kinds of organizations and the applicable cost principles.

Sec. 13.23 Period of availability of funds.

(a) General. Where a funding period is specified, a grantee may charge to the award only costs resulting from obligations of the funding period unless carryover of unobligated balances is permitted, in which case the carryover balances may be charged for costs resulting from obligations of the subsequent funding period.

(b) Liquidation of obligations. A grantee must liquidate all obligations incurred under the award not later than 90 days after the end of the funding period (or as specified in a program regulation) to coincide with the submission of the annual Financial Status Report (SF-269). The Federal agency may extend this deadline at the request of the grantee.

Sec. 13.24 Matching or cost sharing.

(a) Basic rule: Costs and contributions acceptable. With the qualifications and exceptions listed in paragraph (b) of this section, a matching or cost sharing requirement may be satisfied by either or both of the following:

(1) Allowable costs incurred by the grantee, subgrantee or a cost-type contractor under the assistance agreement. This includes allowable costs borne by non-Federal grants or by others cash donations from non-Federal third parties.

(2) The value of third party in-kind contributions applicable to the period to which the cost sharing or matching requirements applies.

(b) Qualifications and exceptions--(1) Costs borne by other Federal grant agreements. Except as provided by Federal statute, a cost sharing or matching requirement may not be met by costs borne by another Federal grant. This prohibition does not apply to income earned by a grantee or subgrantee from a contract awarded under another Federal grant.

(2) General revenue sharing. For the purpose of this section, general revenue sharing funds distributed under 31 U.S.C. 6702 are not considered Federal grant funds.

(3) Cost or contributions counted towards other Federal costs-sharing requirements. Neither costs nor the values of third party in-kind contributions may count towards satisfying a cost sharing or matching requirement of a grant agreement if they have been or will be counted towards satisfying a cost sharing or matching requirement of another Federal grant agreement, a Federal procurement contract, or any other award of Federal funds.

(4) Costs financed by program income. Costs financed by program income, as defined in Sec. 13.25, shall not count towards satisfying a cost sharing or matching requirement unless they are expressly permitted in the terms of the assistance agreement. (This use of general program income is described in Sec. 13.25(g).)

(5) Services or property financed by income earned by contractors. Contractors under a grant may earn income from the activities carried out under the contract in addition to the amounts earned from the party awarding the contract. No costs of services or property supported by this income may count toward satisfying a cost sharing or matching requirement unless other provisions of the grant agreement expressly permit this kind of income to be used to meet the requirement.

(6) Records. Costs and third party in-kind contributions counting towards satisfying a cost sharing or matching requirement must be verifiable from the records of grantees and subgrantee or cost-type contractors. These records must show how the value placed on third party in-kind contributions was derived. To the extent feasible, volunteer services will be

supported by the same methods that the organization uses to support the allocability of regular personnel costs.

(7) Special standards for third party in-kind contributions. (i) Third party in-kind contributions count towards satisfying a cost sharing or matching requirement only where, if the party receiving the contributions were to pay for them, the payments would be allowable costs.

(ii) Some third party in-kind contributions are goods and services that, if the grantee, subgrantee, or contractor receiving the contribution had to pay for them, the payments would have been an indirect costs. Costs sharing or matching credit for such contributions shall be given only if the grantee, subgrantee, or contractor has established, along with its regular indirect cost rate, a special rate for allocating to individual projects or programs the value of the contributions.

(iii) A third party in-kind contribution to a fixed-price contract may count towards satisfying a cost sharing or matching requirement only if it results in:

(A) An increase in the services or property provided under the contract (without additional cost to the grantee or subgrantee) or

(B) A cost savings to the grantee or subgrantee.

(iv) The values placed on third party in-kind contributions for cost sharing or matching purposes will conform to the rules in the succeeding sections of this part. If a third party in-kind contribution is a type not treated in those sections, the value placed upon it shall be fair and reasonable.

(**c**) Valuation of donated services--(1) Volunteer services. Unpaid services provided to a grantee or subgrantee by individuals will be valued at rates consistent with those ordinarily paid for similar work in the grantee's or subgrantee's organization. If the grantee or subgrantee does not have employees performing similar work, the rates will be consistent with those ordinarily paid by other employers for similar work in the same labor market. In either case, a reasonable amount for fringe benefits may be included in the valuation.

(2) Employees of other organizations. When an employer other than a grantee, subgrantee, or cost-type contractor furnishes free of charge the services of an employee in the employee's normal line of work, the services will be valued at the employee's regular rate of pay exclusive of the employee's fringe benefits and overhead costs. If the services are in a different line of work, paragraph (**c**)(1) of this section applies.

(d) Valuation of third party donated supplies and loaned equipment or space. (1) If a third party donates supplies, the contribution will be valued at the market value of the supplies at the time of donation. (2) If a third party donates the use of equipment or space in a building but retains title, the contribution will be valued at the fair rental rate of the equipment or space.

(e) Valuation of third party donated equipment, buildings, and land. If a third party donates equipment, buildings, or land, and title passes to a grantee or subgrantee, the treatment of the donated property will depend upon the purpose of the grant or subgrant, as follows:

(1) Awards for capital expenditures. If the purpose of the grant or subgrant is to assist the grantee or subgrantee in the acquisition of property, the market value of that property at the time of donation may be counted as cost sharing or matching,

(2) Other awards. If assisting in the acquisition of property is not the purpose of the grant or subgrant, paragraphs (e)(2) (i) and (ii) of this section apply:

(i) If approval is obtained from the awarding agency, the market value at the time of donation of the donated equipment or buildings and the fair rental rate of the donated land may be counted as cost sharing or matching. In the case of a subgrant, the terms of the grant

agreement may require that the approval be obtained from the Federal agency as well as the grantee. In all cases, the approval may be given only if a purchase of the equipment or rental of the land would be approved as an allowable direct cost. If any part of the donated property was acquired with Federal funds, only the non-Federal share of the property may be counted as cost-sharing or matching.

(ii) If approval is not obtained under paragraph (e)(2)(i) of this section, no amount may be counted for donated land, and only depreciation or use allowances may be counted for donated equipment and buildings. The depreciation or use allowances for this property are not treated as third party in-kind contributions. Instead, they are treated as costs incurred by the grantee or subgrantee. They are computed and allocated (usually as indirect costs) in accordance with the cost principles specified in Sec. 13.22, in the same way as depreciation or use allowances for purchased equipment and buildings. The amount of depreciation or use allowances for donated equipment and buildings is based on the property's market value at the time it was donated.

(f) Valuation of grantee or subgrantee donated real property for construction/acquisition. If a grantee or subgrantee donates real property for a construction or facilities acquisition project, the current market value of that property may be counted as cost sharing or matching. If any part of the donated property was acquired with Federal funds, only the non-Federal share of the property may be counted as cost sharing or matching.

(g) Appraisal of real property. In some cases under paragraphs (d), (e) and (f) of this section, it will be necessary to establish the market value of land or a building or the fair rental rate of land or of space in a building. In these cases, the Federal agency may require the market value or fair rental value be set by an independent appraiser, and that the value or rate be certified by the grantee. This requirement will also be imposed by the grantee on subgrantees.

Sec. 13.25 Program income.

(a) General. Grantees are encouraged to earn income to defray program costs. Program income includes income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from the sale of commodities or items fabricated under a grant agreement, and from payments of principal and interest on loans made with grant funds. Except as otherwise provided in regulations of the Federal agency, program income does not include interest on grant funds, rebates, credits, discounts, refunds, etc. and interest earned on any of them.

(b) Definition of program income. Program income means gross income received by the grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period. During the grant period is the time between the effective date of the award and the ending date of the award reflected in the final financial report.

(**c**) Cost of generating program income. If authorized by Federal regulations or the grant agreement, costs incident to the generation of program income may be deducted from gross income to determine program income.

(d) Governmental revenues. Taxes, special assessments, levies, fines, and other such revenues raised by a grantee or subgrantee are not program income unless the revenues are specifically identified in the grant agreement or Federal agency regulations as program income.

(e) Royalties. Income from royalties and license fees for copyrighted material, patents, and inventions developed by a grantee or subgrantee is program income only if the revenues are specifically identified in the grant agreement or Federal agency regulations as program

income. (See Sec. 13.34.)

(f) Property. Proceeds from the sale of real property or equipment will be handled in accordance with the requirements of Secs. 13.31 and 13.32.

(g) Use of program income. Program income shall be deducted from outlays which may be both Federal and non-Federal as described below, unless the Federal agency regulations or the grant agreement specify another alternative (or a combination of the alternatives). In specifying alternatives, the Federal agency may distinguish between income earned by the grantee and income earned by subgrantees and between the sources, kinds, or amounts of income. When Federal agencies authorize the alternatives in paragraphs (g) (2) and (3) of this section, program income in excess of any limits stipulated shall also be deducted from outlays.

(1) Deduction. Ordinarily program income shall be deducted from total allowable costs to determine the net allowable costs. Program income shall be used for current costs unless the Federal agency authorizes otherwise. Program income which the grantee did not anticipate at the time of the award shall be used to reduce the Federal agency and grantee contributions rather than to increase the funds committed to the project.

(2) Addition. When authorized, program income may be added to the funds committed to the grant agreement by the Federal agency and the grantee. The program income shall be used for the purposes and under the conditions of the grant agreement.

(3) Cost sharing or matching. When authorized, program income may be used to meet the cost sharing or matching requirement of the grant agreement. The amount of the Federal grant award remains the same. (h) Income after the award period. There are no Federal requirements governing the disposition of program income earned after the end of the award period (i.e., until the ending date of the final financial report, see paragraph (a) of this section), unless the terms of the agreement or the Federal agency regulations provide otherwise.Sec. 13.26 Non-Federal audit.

(a) Basic rule. Grantees and subgrantees are responsible for obtaining audits in accordance with the Single Audit Act Amendments of 1996 (31 U.S.**C**. 7501-7507) and revised OMB Circular A-133, ``Audits of States, Local Governments, and Non-Profit Organizations.'' The audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits.

(b) Subgrantees. State or local governments, as those terms are defined for purposes of the Single Audit Act Amendments of 1996, that provide Federal awards to a subgrantee, which expends $300,000 or more (or other amount as specified by OMB) in Federal awards in a fiscal year, shall:

(1) Determine whether State or local subgrantees have met the audit requirements of the Act and whether subgrantees covered by OMB Circular A-110, ``Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,'' have met the audit requirements of the Act. Commercial contractors (private for-profit and private and governmental organizations) providing goods and services to State and local governments are not required to have a single audit performed. State and local governments should use their own procedures to ensure that the contractor has complied with laws and regulations affecting the expenditure of Federal funds;

(2) Determine whether the subgrantee spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subgrantee made in accordance with the Act, Circular A-110, or through other means (e.g., program reviews) if the subgrantee has not had such an audit;

(3) Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instance of noncompliance with Federal laws and regulations;

(4) Consider whether subgrantee audits necessitate adjustment of the grantee's own records; and

(5) Require each subgrantee to permit independent auditors to have access to the records and financial statements.

(**c**) Auditor selection. In arranging for audit services, Sec. 13.36 shall be followed. [53 FR 8079, 887, Mar. 11, 1988, as amended at 62 FR 45939, 45945, Aug. 29, 1997]

Changes, Property, and Subawards

Sec. 13.30 Changes.

(a) General. Grantees and subgrantees are permitted to rebudget within the approved direct cost budget to meet unanticipated requirements and may make limited program changes to the approved project. However, unless waived by the awarding agency, certain types of post-award changes in budgets and projects shall require the prior written approval of the awarding agency.

(b) Relation to cost principles. The applicable cost principles (see Sec. 13.22) contain requirements for prior approval of certain types of costs. Except where waived, those requirements apply to all grants and subgrants even if paragraphs (**c**) through (f) of this section do not.

(**c**) Budget changes--(1) Nonconstruction projects. Except as stated in other regulations or an award document, grantees or subgrantees shall obtain the prior approval of the awarding agency whenever any of the following changes is anticipated under a nonconstruction award:

(i) Any revision which would result in the need for additional funding.

(ii) Unless waived by the awarding agency, cumulative transfers among direct cost categories, or, if applicable, among separately budgeted programs, projects, functions, or activities which exceed or are expected to exceed ten percent of the current total approved budget, whenever the awarding agency's share exceeds $100,000.

(iii) Transfer of funds allotted for training allowances (i.e., from direct payments to trainees to other expense categories).

(2) Construction projects. Grantees and subgrantees shall obtain prior written approval for any budget revision which would result in the need for additional funds.

(3) Combined construction and nonconstruction projects. When a grant or subgrant provides funding for both construction and nonconstruction activities, the grantee or subgrantee must obtain prior written approval from the awarding agency before making any fund or budget transfer from nonconstruction to construction or vice versa.

(d) Programmatic changes. Grantees or subgrantees must obtain the prior approval of the awarding agency whenever any of the following actions is anticipated:

(1) Any revision of the scope or objectives of the project (regardless of whether there is an associated budget revision requiring prior approval).

(2) Need to extend the period of availability of funds.

(3) Changes in key persons in cases where specified in an application or a grant award. In research projects, a change in the project director or principal investigator shall always require approval unless waived by the awarding agency.

(4) Under nonconstruction projects, contracting out, subgranting (if authorized by law) or otherwise obtaining the services of a third party to perform activities which are central to the purposes of the award. This approval requirement is in addition to the approval requirements of Sec. 13.36 but does not apply to the procurement of equipment, supplies, and general

support services.

(e) Additional prior approval requirements. The awarding agency may not require prior approval for any budget revision which is not described in paragraph (**c**) of this section.

(f) Requesting prior approval. (1) A request for prior approval of any budget revision will be in the same budget formal the grantee used in its application and shall be accompanied by a narrative justification for the proposed revision.

(2) A request for a prior approval under the applicable Federal cost principles (see Sec. 13.22) may be made by letter.

(3) A request by a subgrantee for prior approval will be addressed in writing to the grantee. The grantee will promptly review such request and shall approve or disapprove the request in writing. A grantee will not approve any budget or project revision which is inconsistent with the purpose or terms and conditions of the Federal grant to the grantee. If the revision, requested by the subgrantee would result in a change to the grantee's approved project which requires Federal prior approval, the grantee will obtain the Federal agency's approval before approving the subgrantee's request.

Sec. 13.31 Real property.

(a) Title. Subject to the obligations and conditions set forth in this section, title to real property acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.

(b) Use. Except as otherwise provided by Federal statutes, real property will be used for the originally authorized purposes as long as needed for that purposes, and the grantee or subgrantee shall not dispose of or encumber its title or other interests.

(**c**) Disposition. When real property is no longer needed for the originally authorized purpose, the grantee or subgrantee will request disposition instructions from the awarding agency. The instructions will provide for one of the following alternatives:

(1) Retention of title. Retain title after compensating the awarding agency. The amount paid to the awarding agency will be computed by applying the awarding agency's percentage of participation in the cost of the original purchase to the fair market value of the property. However, in those situations where a grantee or subgrantee is disposing of real property acquired with grant funds and acquiring replacement real property under the same program, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.

(2) Sale of property. Sell the property and compensate the awarding agency. The amount due to the awarding agency will be calculated by applying the awarding agency's percentage of participation in the cost of the original purchase to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the grant is still active, the net proceeds from sale may be offset against the original cost of the property. When a grantee or subgrantee is directed to sell property, sales procedures shall be followed that provide for competition to the extent practicable and result in the highest possible return.

(3) Transfer of title. Transfer title to the awarding agency or to a third-party designated/approved by the awarding agency. The grantee or subgrantee shall be paid an amount calculated by applying the grantee or subgrantee's percentage of participation in the purchase of the real property to the current fair market value of the property.

Sec. 13.32 Equipment.

(a) Title. Subject to the obligations and conditions set forth in this section, title to equipment acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.

(b) States. A State will use, manage, and dispose of equipment acquired under a grant by

the State in accordance with State laws and procedures. Other grantees and subgrantees will follow paragraphs (**c**) through (e) of this section.

(**c**) Use. (1) Equipment shall be used by the grantee or subgrantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.

(2) The grantee or subgrantee shall also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the awarding agency. User fees should be considered if appropriate.

(3) Notwithstanding the encouragement in Sec. 13.25(a) to earn program income, the grantee or subgrantee must not use equipment acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by Federal statute.

(4) When acquiring replacement equipment, the grantee or subgrantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the approval of the awarding agency.

(d) Management requirements. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements:

(1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

(2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

(3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.

(4) Adequate maintenance procedures must be developed to keep the property in good condition.

(5) If the grantee or subgrantee is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

(e) Disposition. When original or replacement equipment acquired under a grant or subgrant is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency, disposition of the equipment will be made as follows:

(1) Items of equipment with a current per-unit fair market value of less than $5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.

(2) Items of equipment with a current per unit fair market value in excess of $5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplyingthe current market value or proceeds from sale by the awarding agency's share of the equipment.

(3) In cases where a grantee or subgrantee fails to take appropriate disposition actions, the awarding agency may direct the grantee or subgrantee to take excess and disposition actions.

(f) Federal equipment. In the event a grantee or subgrantee is

provided federally-owned equipment:

(1) Title will remain vested in the Federal Government.

(2) Grantees or subgrantees will manage the equipment in accordance with Federal agency rules and procedures, and submit an annual inventory listing.

(3) When the equipment is no longer needed, the grantee or subgrantee will request disposition instructions from the Federal agency.

(g) Right to transfer title. The Federal awarding agency may reserve the right to transfer title to the Federal Government or a third part named by the awarding agency when such a third party is otherwise eligible under existing statutes. Such transfers shall be subject to the following standards:

(1) The property shall be identified in the grant or otherwise made known to the grantee in writing.

(2) The Federal awarding agency shall issue disposition instruction within 120 calendar days after the end of the Federal support of the project for which it was acquired. If the Federal awarding agency fails to issue disposition instructions within the 120 calendar-day period the grantee shall follow Sec. 13.32(e).

(3) When title to equipment is transferred, the grantee shall be paid an amount calculated by applying the percentage of participation in the purchase to the current fair market value of the property.

Sec. 13.33 Supplies.

(a) Title. Title to supplies acquired under a grant or subgrant will vest, upon acquisition, in the grantee or subgrantee respectively.

(b) Disposition. If there is a residual inventory of unused supplies exceeding $5,000 in total aggregate fair market value upon termination or completion of the award, and if the supplies are not needed for any other federally sponsored programs or projects, the grantee or subgrantee shall compensate the awarding agency for its share.

Sec. 13.34 Copyrights.

The Federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:

(a) The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and

(b) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.

Sec. 13.35 Subawards to debarred and suspended parties.

Grantees and subgrantees must not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, ``Debarment and Suspension."

Sec. 13.36 Procurement.

(a) States. When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other grantees and subgrantees will follow paragraphs (b) through (i) in this section.

(b) Procurement standards. (1) Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(2) Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms,conditions, and specifications of their contracts or purchase orders.

(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

(i) The employee, officer or agent,

(ii) Any member of his immediate family,

(iii) His or her partner, or

(iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

(4) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(5) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

(6) Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(7) Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative anaylsis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(8) Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(9) Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(10) Grantees and subgrantees will use time and material type contracts only--

(i) After a determination that no other contract is suitable, and

(ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.

(11) Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

(12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and

(ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

(**c**) Competition. (1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of section 13.36. Some of the situations considered to be restrictive of competition include but are not limited to:

(i) Placing unreasonable requirements on firms in order for them to qualify to do business,

(ii) Requiring unnecessary experience and excessive bonding,

(iii) Noncompetitive pricing practices between firms or between affiliated companies,

(iv) Noncompetitive awards to consultants that are on retainer contracts,

(v) Organizational conflicts of interest,

(vi) Specifying only a ``brand name'' product instead of allowing ``an equal'' product to be offered and describing the performance of other relevant requirements of the procurement, and

(vii) Any arbitrary action in the procurement process.

(2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:

(i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and

accurate description of the technical requirements, a
``brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and

(ii) Identify all requirements which the offerors must fulfill and
all other factors to be used in evaluating bids or proposals.

(4) Grantees and subgrantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

(d) Methods of procurement to be followed--(1) Procurement by small purchase procedures. Small purchase proceduresare those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.**C**. 403(11) (currently set at $100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

(2) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in Sec. 13.36(d)(2)(i) apply. (i) In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively and for the business; and

(**C**) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

(A) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;

(B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;

(**C**) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of;
and

(E) Any or all bids may be rejected if there is a sound documented reason.

(3) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;

(ii) Proposals will be solicited from an adequate number of qualified sources;

(iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;

(iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(4) Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

(i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

(A) The item is available only from a single source;

(B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(**C**) The awarding agency authorizes noncompetitive proposals; or

(D) After solicitation of a number of sources, competition is determined inadequate.

(ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.

(iii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

(e) Contracting with small and minority firms, women's business enterprise and labor surplus area firms. (1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps shall include:

(i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

(iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;

(v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

(vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

(f) Contract cost and price. (1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the

particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price resonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

(2) Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see Sec. 13.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

(4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

(g) Awarding agency review. (1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

(i) A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or

(ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or

(iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a ``brand name'' product; or

(iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

(3) A grantee or subgrantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

(i) A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-

dollar funding, and third-party contracts are awarded on a regular basis.

(ii) A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will **cite** specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

(h) Bonding requirements. For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The ``bid guarantee'' shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A ``performance bond'' is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A ``payment bond'' is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(i) Contract provisions. A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

(1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)

(2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of $10,000)

(3) Compliance with Executive Order 11246 of September 24, 1965, entitled ``Equal Employment Opportunity,'' as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of $10,000 by grantees and their contractors or subgrantees)

(4) Compliance with the Copeland ``Anti-Kickback'' Act (18 U.S.**C**. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). (All contracts and subgrants for construction or repair)

(5) Compliance with the Davis-Bacon Act (40 U.S.**C**. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts in excess of $2000 awarded by grantees and subgrantees when required by Federal grant program legislation)

(6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.**C**. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by grantees and subgrantees in excess of $2000, and in excess of $2500 for other contracts which involve the employment of mechanics or laborers)

(7) Notice of awarding agency requirements and regulations pertaining to reporting.

(8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract. (9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.

(10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

(11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

(12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.**C**. 1857(h)), section 508 of the Clean Water Act (33 U.S.**C**. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of $100,000)

(13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).[53 FR 8078, 8087, Mar. 11, 1988, as amended at 60 FR 19639, 19645, Apr. 19, 1995]

Sec. 13.37 Subgrants.

(a) States. States shall follow state law and procedures when awarding and administering subgrants (whether on a cost reimbursement or fixed amount basis) of financial assistance to local and Indian tribal governments. States shall:

(1) Ensure that every subgrant includes any clauses required by Federal statute and executive orders and their implementing regulations;

(2) Ensure that subgrantees are aware of requirements imposed upon them by Federal statute and regulation;

(3) Ensure that a provision for compliance with Sec. 13.42 is placed in every cost reimbursement subgrant; and

(4) Conform any advances of grant funds to subgrantees substantially to the same standards of timing and amount that apply to cash advances by Federal agencies.

(b) All other grantees. All other grantees shall follow the provisions of this part which are applicable to awarding agencies when awarding and administering subgrants (whether on a cost reimbursement or fixed amount basis) of financial assistance to local and Indian tribal governments. Grantees shall:

(1) Ensure that every subgrant includes a provision for compliance with this part;

(2) Ensure that every subgrant includes any clauses required by Federal statute and executive orders and their implementing regulations; and

(3) Ensure that subgrantees are aware of requirements imposed upon them by Federal statutes and regulations.

(**c**) Exceptions. By their own terms, certain provisions of this part do not apply to the award and administration of subgrants:

(1) Section 13.10;

(2) Section 13.11;

(3) The letter-of-credit procedures specified in Treasury Regulations at 31 CFR part 205, cited in Sec. 13.21; and

(4) Section 13.50.

Reports, Records Retention, and Enforcement

Sec. 13.40 Monitoring and reporting program performance.

(a) Monitoring by grantees. Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity.

(b) Nonconstruction performance reports. The Federal agency may, if it decides that performance information available from subsequent applications contains sufficient information to meet its programmatic needs, require the grantee to submit a performance report only upon expiration or termination of grant support. Unless waived by the Federal agency this report will be due on the same date as the final Financial
Status Report.

(1) Grantees shall submit annual performance reports unless the awarding agency requires quarterly or semi-annual reports. However, performance reports will not be required more frequently than quarterly. Annual reports shall be due 90 days after the grant year, quarterly or semi-annual reports shall be due 30 days after the reporting period. The final performance report will be due 90 days after the expiration or termination of grant support. If a justified request is submitted by a grantee, the Federal agency may extend the due date for any performance report. Additionally, requirements for unnecessary performance reports may be waived by the Federal agency.

(2) Performance reports will contain, for each grant, brief information on the following:

(i) A comparison of actual accomplishments to the objectives established for the period. Where the output of the project can be quantified, a computation of the cost per unit of output may be required if that information will be useful.

(ii) The reasons for slippage if established objectives were not met.

(iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(3) Grantees will not be required to submit more than the original and two copies of performance reports.

(4) Grantees will adhere to the standards in this section in prescribing performance reporting requirements for subgrantees.

(**c**) Construction performance reports. For the most part, on-site technical inspections and certified percentage-of-completion data are relied on heavily by Federal agencies to monitor progress under construction grants and subgrants. The Federal agency will require additional formal performance reports only when considered necessary, and never more frequently than quarterly.

(d) Significant developments. Events may occur between the scheduled performance reporting dates which have significant impact upon the grant or subgrant supported activity. In such cases, the grantee must inform the Federal agency as soon as the following types of conditions become known:

(1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.

(e) Federal agencies may make site visits as warranted by program needs.

(f) Waivers, extensions. (1) Federal agencies may waive any performance report required by this part if not needed.

(2) The grantee may waive any performance report from a subgrantee when not needed. The grantee may extend the due date for any performance report from a subgrantee if the grantee will still be able to meet its performance reporting obligations to the Federal agency.

Sec. 13.41 Financial reporting.

(a) General. (1) Except as provided in paragraphs (a) (2) and (5) of this section, grantees will use only the forms specified in paragraphs (a) through (e) of this section, and such supplementary or other forms as may from time to time be authorized by OMB, for:

(i) Submitting financial reports to Federal agencies, or

(ii) Requesting advances or reimbursements when letters of credit are not used.

(2) Grantees need not apply the forms prescribed in this section in dealing with their subgrantees. However, grantees shall not impose more burdensome requirements on subgrantees.

(3) Grantees shall follow all applicable standard and supplemental Federal agency instructions approved by OMB to the extend required under the Paperwork Reduction Act of 1980 for use in connection with forms specified in paragraphs (b) through (e) of this section. Federal agencies may issue substantive supplementary instructions only with the approval of OMB. Federal agencies may shade out or instruct the grantee to disregard any line item that the Federal agency finds unnecessary for its decisionmaking purposes.

(4) Grantees will not be required to submit more than the original and two copies of forms required under this part.

(5) Federal agencies may provide computer outputs to grantees to expedite or contribute to the accuracy of reporting. Federal agencies may accept the required information from grantees in machine usable format or computer printouts instead of prescribed forms.

(6) Federal agencies may waive any report required by this section if not needed.

(7) Federal agencies may extend the due date of any financial report upon receiving a justified request from a grantee.

(b) Financial Status Report--(1) Form. Grantees will use Standard Form 269 or 269A, Financial Status Report, to report the status of funds for all nonconstruction grants and for construction grants when required in accordance with paragraph (e)(2)(iii) of this section.

(2) Accounting basis. Each grantee will report program outlays and program income on a cash or accrual basis as prescribed by the awarding agency. If the Federal agency requires accrual information and the grantee's accounting records are not normally kept on the accural basis, the grantee shall not be required to convert its accounting system but shall develop such accrual information through and analysis of the documentation on hand.

(3) Frequency. The Federal agency may prescribe the frequency of the report for each project or program. However, the report will not be required more frequently than quarterly. If the Federal agency does not specify the frequency of the report, it will be submitted annually. A final report will be required upon expiration or termination of grant support.

(4) Due date. When reports are required on a quarterly or semiannual basis, they will be due 30 days after the reporting period. When required on an annual basis, they will be due 90 days after the grant year. Final reports will be due 90 days after the expiration or termination of grant support.

(**c**) Federal Cash Transactions Report--(1) Form. (i) For grants paid by letter or credit, Treasury check advances or electronic transfer of funds, the grantee will submit the Standard Form 272, Federal Cash Transactions Report, and when necessary, its continuation sheet, Standard Form 272a, unless the terms of the award exempt the grantee from this requirement.

(ii) These reports will be used by the Federal agency to monitor cash advanced to grantees and to obtain disbursement or outlay information for each grant from grantees. The format of

the report may be adapted as appropriate when reporting is to be accomplished with the assistance of automatic data processing equipment provided that the information to be submitted is not changed in substance.

(2) Forecasts of Federal cash requirements. Forecasts of Federal cash requirements may be required in the ``Remarks'' section of the report.

(3) Cash in hands of subgrantees. When considered necessary and feasible by the Federal agency, grantees may be required to report the amount of cash advances in excess of three days' needs in the hands of their subgrantees or contractors and to provide short narrative explanations of actions taken by the grantee to reduce the excess balances.

(4) Frequency and due date. Grantees must submit the report no later than 15 working days following the end of each quarter. However, where an advance either by letter of credit or electronic transfer of funds is authorized at an annualized rate of one million dollars or more, the Federal agency may require the report to be submitted within 15 working days following the end of each month.

(d) Request for advance or reimbursement--(1) Advance payments. Requests for Treasury check advance payments will be submitted on Standard Form 270, Request for Advance or Reimbursement. (This form will not be used for drawdowns under a letter of credit, electronic funds transfer or when Treasury check advance payments are made to the grantee automatically on a predetermined basis.)

(2) Reimbursements. Requests for reimbursement under nonconstruction grants will also be submitted on Standard Form 270. (For reimbursement requests under construction grants, see paragraph (e)(1) of this section.)

(3) The frequency for submitting payment requests is treated in paragraph (b)(3) of this section.

(e) Outlay report and request for reimbursement for construction programs. (1) Grants that support construction activities paid by reimbursement method.

(i) Requests for reimbursement under construction grants will be submitted on Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. Federal agencies may, however, prescribe the Request for Advance or Reimbursement form, specified in paragraph (d) of this section, instead of this form.

(ii) The frequency for submitting reimbursement requests is treated in paragraph (b)(3) of this section.

(2) Grants that support construction activities paid by letter of credit, electronic funds transfer or Treasury check advance.

(i) When a construction grant is paid by letter of credit, electronic funds transfer or Treasury check advances, the grantee will report its outlays to the Federal agency using Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. The Federal agency will provide any necessary special instruction. However, frequency and due date shall be governed by paragraphs (b) (3) and (4) of this section.

(ii) When a construction grant is paid by Treasury check advances based on periodic requests from the grantee, the advances will be requested on the form specified in paragraph (d) of this section.

(iii) The Federal agency may substitute the Financial Status Report specified in paragraph (b) of this section for the Outlay Report andWAIS Document Retrieval[Code of Federal Regulations]

[Code of Federal Regulations]
[Title 44, Volume 1]
[Revised as of October 1, 2000]
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TITLE 44--EMERGENCY MANAGEMENT AND ASSISTANCE

CHAPTER I--FEDERAL EMERGENCY MANAGEMENT AGENCY
AGREEMENTS TO STATE AND LOCAL GOVERNMENTS--Table of Contents
PART 13--UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE

Subpart C--Post-Award Requirements

Sec. 13.36 Procurement.

(a) States. When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other grantees and subgrantees will follow paragraphs (b) through (i) in this section.

(b) Procurement standards. (1) Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(2) Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms,conditions, and specifications of their contracts or purchase orders.

(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

(i) The employee, officer or agent,

(ii) Any member of his immediate family,

(iii) His or her partner, or

(iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

(4) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(5) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

(6) Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(7) Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative anaylsis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(8) Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(9) Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(10) Grantees and subgrantees will use time and material type contracts only--

(i) After a determination that no other contract is suitable, and

(ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.

(11) Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not imited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment forthat of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

(12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and

(ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

(c) Competition. (1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of section 13.36. Some of the situations considered to be restrictive of competition include but are not limited to:

(i) Placing unreasonable requirements on firms in order for them to qualify to do business,

(ii) Requiring unnecessary experience and excessive bonding,

(iii) Noncompetitive pricing practices between firms or between affiliated companies,

(iv) Noncompetitive awards to consultants that are on retainer contracts,

(v) Organizational conflicts of interest,

(vi) Specifying only a ``brand name'' product instead of allowing ``an equal'' product to be offered and describing the performance of other relevant requirements of the procurement, and

(vii) Any arbitrary action in the procurement process.

(2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in- State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:

(i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a ``brand name or equal'' description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and

(ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(4) Grantees and subgrantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

(d) Methods of procurement to be followed--(1) Procurement by small purchase procedures. Small purchase proceduresare those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

(2) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in

price. The sealed bid method is the preferred method for procuring construction, if the conditions in Sec. 13.36(d)(2)(i) apply. (i) In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively and for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

(A) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;

(B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;

(C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(E) Any or all bids may be rejected if there is a sound documented reason.

(3) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;

(ii) Proposals will be solicited from an adequate number of qualified sources;

(iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;

(iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(4) Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

(i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

(A) The item is available only from a single source;

(B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(C) The awarding agency authorizes noncompetitive proposals; or

(D) After solicitation of a number of sources, competition is determined inadequate.

(ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.

(iii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

(e) Contracting with small and minority firms, women's business enterprise and labor surplus area firms. (1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps shall include:

(i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

(iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;

(v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

(vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

(f) Contract cost and price. (1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price resonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

(2) Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see Sec. 13.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

(4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

(g) Awarding agency review. (1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

(i) A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or

(ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or

(iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a ``brand name'' product; or

(iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

(3) A grantee or subgrantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

(i) A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

(ii) A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

(h) Bonding requirements. For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The ``bid guarantee'' shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A ``performance bond'' is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A ``payment bond'' is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(i) Contract provisions. A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

(1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)

(2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of $10,000)

(3) Compliance with Executive Order 11246 of September 24, 1965, entitled ``Equal Employment Opportunity,'' as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of $10,000 by grantees and their contractors or subgrantees)

(4) Compliance with the Copeland ``Anti-Kickback'' Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). (All contracts and subgrants for construction or repair)

(5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts in excess of $2000 awarded by grantees and subgrantees when required by Federal grant program legislation)

(6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by grantees and subgrantees in excess of $2000, and in excess of $2500 for other contracts which involve the employment of mechanics or laborers)

(7) Notice of awarding agency requirements and regulations pertaining to reporting.

(8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.

(9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.

(10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

(11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

(12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of $100,000)

(13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).[53 FR 8078, 8087, Mar. 11, 1988, as

amended at 60 FR 19639, 19645, Apr. 19, 1995]

FEMA Mutual Aid Agreement Participants List

Bailey County EC
Bandera EC
Bartlett EC
Belfalls EC
Big Country EC
Bluebonnet EC
Bowie-Cass EC
Brazos EC
BTU, (Bryan Texas Utilities)
Cap Rock Electric
Central Texas EC
Cherokee County EC
Coleman County EC
Comanche EC
Concho Valley EC
Cooke County EC
CoServ EC
Deaf Smith EC
Deep East Texas EC
Denton Municiple Electric
East Texas EC
Fannin County EC
Fayette EC
FEC Electric
Fort Belknap EC
Golden Spread EC
Grayson-Collin EC
Greenbelt EC
Guadalupe Valley EC
Hamilton County EC
HILCO EC
Houston County EC
J-A-C EC
Jackson EC
Jasper-Newton EC
Karnes EC
Lamar County EC
Lamb County EC
Lea County EC
Lighthouse EC

Lyntegar EC
Magic Valley EC
McLennan County EC
Medina EC
Mid South Synergy
Navarro County EC
Navasota Valley EC
North Plains EC
Northeast Texas EC
Nueces EC
Panola-Harrison EC
Pedernales EC
Rayburn Country EC
Rio Grande EC
Rita Blanca EC
Rusk County EC
Sam Houston EC
San Bernard EC
San Miguel EC
San Patricio EC
South Plains EC
South Texas EC
Southwest Rural EC
Southwest Texas EC
Swisher EC
Taylor EC
Tri-County EC
Trinity Valley EC
United Cooperative Services
Upshur-Rural EC
Victoria EC
Webster EC
Wharton County EC
Wise EC
Wood County EC

Mutual Aid Assistance Plan
Compensation Survey

Please fill out and FAX your return to Tiffin Wortham 512-486-6215. Thank You!

1. It is normal for "assisting cooperatives" to bill the affected cooperative (the one receiving aid) for the actual payroll cost of an employee, plus an "added amount" per hour for all straight time hours, and 1 ½ time per hour for all overtime hours worked. What is the typical "added amount" per hour for straight time in your state?

   _____

   What is the "adder" for overtime hours? _____

2. What reimbursement rate is paid for office staff volunteers (non-linemen)? _____

3. What is the reimbursement rate paid for vehicles of one ton or less? _____

4. What is the rate paid for vehicles of 1 ½ ton or 2 ton capacity? _____

5. What is the rate paid for specially equipped vehicles or equipment? _____

6. Is mileage paid both to and from the assisting cooperatives' normal location of vehicles? _____ Yes _____ No

7. What is the average rate charged for overhead in your state? _____

8. Are all materials supplied by assisting cooperatives billed at cost? ____ Yes ____ No

9. How are office employees at affected systems compensated during/after the storm?

   _____
   _____
   _____
   _____
   _____
   _____

10. Please describe any special compensation or awards programs for affected system employees (i.e., bonuses, rewards, recognition, etc.).

    _____
    _____
    _____
    _____
    _____
    _____

Coop – FEMA close out procedures
And recommended changes
Dec 10, 2003

1. Coop Standards

Every Coop should have a Standard Construction Policy, signed by the Manager, and preferably Board approved (included in Board Minutes) showing at least the following:

Statement that all construction will comply with the current edition of the NESC
Possible

Minimum pole height and class 40' class 5

Maximum pole average spacing (ruling span) 300'

Minimum wire size(s) and where used #1/0 ACSR down section lines

Maximum number of splices per conductor acceptable in a mile of line #4 ACSR taps with current < 10 amps 4

No automatic splices in slack spans

Copper clad wire should be replaced as economical or for NESC or strength reasons:
Wire found in four spans per mile, with sag exceeding TWICE design final sag is over-stretched and ruined and entire mile is to be replaced. If you have better criteria, share it.

Wire found with inadequate ground clearance must be corrected. If 4 or more spans per mile (pro-rated), replace all conductor in entire mile.

Wire and poles may re-used temporarily to get the power on, but records should show the intended later replacement Category F (Permanent Replacement). Temp repairs are Category B (Emergency Protective Measures). Overtime only is reimbursable for your crews; 100% reimbursable contractors.

Any other specific construction practice you adopt
Policy must be your standard practice, and NOT just for FEMA events.

Any other specific construction practice you adopt

Management policies for overtime payment/bonuses for salaried employees after __ (100) hours of emergency. Policy must be in place prior to event and used on all events, FEMA or not.

2. Material Issue

Extreme care is necessary in tracking material issue/use. If material issue tickets are used, there MUST be tickets for ALL material you expect FEMA reimbursement. If picking lists from Work Orders (Staking Sheets) are used to capitalize material, a policy change should be done.

3. **Contracts**
   FEMA allows Time and Material contracts for emergency period, usually interpreted as the first 70 hours. They then expect re-bid contracts from at least 3 contractors. Verbal contracts are acceptable BUT record of bids and bidders must be kept. FEMA prefers Lump Sum or Unit Price contracts after 70 hours. This is impossible for electric cooperatives to do. Lump sum would require Staking Sheets to specify work and formal bid documents issued. Multiple and different contracts could be used if additional contractors are necessary, but FEMA prefers you jawbone all contractors down to lowest bid prices. This is usually not possible. FEMA teaches a lump sum contract for a geographic area. Few, if any, electrical contractors would even consider this. It may work fine for debris removal in a city.
   If Time and Material contracts are allowed after 70 hours, Coop supervision and documentation daily are required. Inspection is usually done but seldom documented. It's worth the effort to continue Time and Material contracts.

   Mutual Aid Agreements are used by FEMA as a trip device to deny FEMA funds. Agreements cannot be signed by all possible mutual aid partners any more than contracts can be in place for all **possible contractors**. Mutual aid should be treated like any other contractors. If the agreements specify assistance for free (which is stupid), then you must abide by the agreement. Such agreements should specify the extent of the free help. Agreements should say that the helping partner shall bill all costs at their normal costs. Any adders should be specified in the agreement.

   Prepare Staking Sheets ASAP after work done. I've worked with a Coop that assigned a Staking Engineer in the Dispatcher Office and prepared daily all sheets from work done and called in. After work is completed, area must be scoured to make sure all staking sheets are done and all work is included on the sheets. The work of making the staking sheets is FEMA reimbursable. But the looking for damage is not (Administrative Costs).

4. PW's should specify countable quantities of work to be done whenever possible. Be prepared to explain overruns and higher costs than estimated. Suggest notifying OEM when overruns are anticipated. That requires constant tracking of the PW progress, something Coop's normally do not do. This implies a full time accounting manager for the FEMA work (Administrative Costs).

5. FEMA contractors should be trained in electrical **Codes and Standards**.

6. FEMA accountants should be consistent between Coops.

7. OEM really needs a knowledgeable electrical liaison.

It was noted that during an Inspector General's audit of FEMA disbursements to Co-ops, some of the following items are of particular interest to the auditors.

- Time sheet entries for office personnel.
- Bid information for work to be performed by contractors (work must be bid).
- Compliance with FEMA statutes.
- All work done subsequent to restoration effort must be included in PW scope of work.
- Accurate and documented descriptions of work performed by office personnel if it related to field personnel, i.e., delivering meals/material to field, warehouse work, etc.
- Have documents detailing costs for pieces of equipment used by other Co-ops and Contractors in both the restoration and reconstruction effort.
- Keep an accurate accounting of all overheads as they relate to both restoration and reconstruction activities.
- Be prepared to document and explain the process your Co-op used to select work crews, whether from another Co-op or a Contractor, i.e., the Mutual Aid Plan.
- An action plan on how your Co-op selected its Contractors; least expensive to most expensive list, list of equipment needed in order to respond to the damage, etc.
- Document the rationale behind selecting the crews you brought in; in other words, it's not good enough to just simply say, "We just had to get everyone that we could get in order to get our customer's lights back on as quickly as possible." That's not good enough for the IG's auditors. They want to know WHY you brought in who you did. Getting your customer's power back on means nothing to them… how you did it and how you documented doing it (materials, labor, bids, accounting for all of this) does matter to them, and whether or not the proper statutes were followed.
- Shortest audit period: 2 to 4 weeks.
- Longest audit period: 6 to 12 months.

Notes from conversations with CEO's, CFO's, and Cooperative Accountants across the U.S. who have been through an Audit by the Office of Inspector General in relation to disbursement of FEMA disaster funds to Electric Cooperatives.

These auditors will go by the "original setup" conducted by the FEMA team, meaning if it's not in their original scope of work and in the approved PW, then FEMA and the Inspector General's audit staff WILL NOT allow it (reimbursement).

Mostly done on a "Phase I" (emergency power restoration) and "Phase II" (debris removal and permanent repairs) basis. Keep records and documentation from the date of the original disaster, and keep track of ALL RECORDS and INVOICES, TIME SHEETS and other pertinent data, through ALL PAY PERIODS related to the disaster.

On time sheets: note what Office Personnel were doing in relation to the disaster. If they were making meals, delivering them, or delivering equipment and supplies during the restoration effort and subsequent recovery, then their time can be reimbursed. This is a very touchy area with the auditors, and accurate records and descriptions of work performed by Office Personnel are very important.

These OIG Auditors will always want to see your bids for projects from Contractors. They will

come in with the attitude that "this Co-op has used some FEMA money illegally" and you (the Co-op) must prove to them otherwise.

Auditors will always have heartburn on overhead from Contractors, and their travel time to and from the job. Transportation costs are always highly questioned, both from Contractors and from Co-op crews. As a side note, it seems to be the OIG Auditor's opinion that FEMA should first send in auditors to show a Co-op how to track material and costs BEFORE a disaster occurs! (Not a bad idea, actually!)

Make notes about what your Co-op does as a matter of routine, i.e.; policies or procedures that explain why you do things the way you do in emergency situations. This should also include how you handle the selection of Contractors and Co-op crews during disaster or mutual assistance situations. Should also include a paragraph or two on the Co-op's "action plan" (Mutual Aid Agreement) and how that plan or agreement addresses selection of Contractors (do you have a list and is it sorted from least expensive to most expensive, etc.) their qualifications, etc. What your priorities are for getting Contractors versus Co-op crews to help, etc., and any other pertinent information.

Document and detail your decision-making process for rebuilding your system during the disaster. Did you have a policy addressing how you will rebuild the system in just such a scenario? Did you have this on record BEFORE the disaster occurred? If not, you should have such a policy (suggested by several Co-ops).

Also document your Co-op's rationale for getting lines back on and the priority nature of certain line segments (Three-phase feeders first, etc.)

It's also a good idea to do the following: get a signed contract from a Contractor ahead of time (standard RUS contract for time and materials) and have a separate price sheet listed as "Exhibit A" for storm repair work. Then update the contract annually with the Contractor. Exhibit A can be changed to reflect current storm repair prices.

"Phase I" is generally described as the "Emergency Repairs" period of time for power restoration, but is usually not a long period of time. "Phase II" is considered to be the period of time after Emergency Repairs are made and includes Debris Removal and Permanent Repairs, necessary to get the line back in the condition it was in prior to the disaster. (This last statement is subject to bringing the line into compliance with NESC Code and RUS construction and design requirements.) If you have a written policy for procedures to accomplish "Phase II" from your field people (Engineers and Construction Supervisors) then you are ahead of the game. Remember: getting the lights back on means nothing to an OIG Auditor; they only go by provisions of the Stafford Act and by GAO accounting rules to make sure you and your Co-op spent federal money the exact way it was intended to be spent!

DO NOT SIGN an agreement or a contract for a type "A-133" audit if presented to you by OIG Auditors. This is a type of "governmental audit" that RUS Borrowers have an exemption from. For further information about such documentation, contact Steve Piecara or Gary Bartlett with NRECA (1-703-907-5500). You might also want to talk this over with Jonathan Glazier, an attorney for NRECA, and with your own auditor that performs financial audits for your Cooperative. (Exemption is in 7 CFR, Part 1773.3)

Note: ODCEM may have this as a requirement in their "Set 2 Forms" for FEMA reimbursement. Sid will contact ODCEM officials to try and clarify and, if possible, correct such language.

Keep track of all "Damage Survey Reports" conducted by FEMA field personnel when they were making their PWs. Estimates should be on the high side. Get ALL documents and records from Contractors, including their time sheets, etc., not just their invoices or their bills. Not cost plus, but their actual prices for work performed, too.

Damage reports by County might be asked for. Line restoration and debris removal by County or Work Order might be asked for as well.

Force Labor is tough to get for Office Personnel, unless they were actually in the field or delivering meals, equipment, etc., to crews in the field or to temporary warehouses that were set up during the disaster. For any salaried employee, document what they did, especially if it involved overtime. Must show auditors a policy that you had in place prior to the disaster that allows compensation for salaried employees IF they were doing work tied to the disaster.

Retain copies of invoices for both federal and state authorities. Keep LOTS of PHOTOS of the damage to your system. Date and document the times and places of damage shown in the photos or of any film footage that is taken of damage in disaster-declared areas. In short, DOCUMENT, DOCUMENT, DOCUMENT!

ATTACHMENTS and FORMS
Board Policies

Cooperative boards may consider adopting a written policy that addresses overtime pay or extra compensation (such as bonuses) for staff members and other salaried personnel during extreme storm conditions. Such policy should outline requirements associated with the staffing of Emergency Operations Centers during prolonged or extended outage situations related to natural disasters, and should closely follow allowable compensation guidelines as indicated by FEMA and each state's emergency management agency.

Boards should also adopt a policy concerning specific pole and conductor sizes used as standard replacement of older material damaged as a result of a disaster. Cooperative staking sheets and work plans should be used as examples to show proof of a "replacement standard" being in place prior to the occurrence of a natural disaster. (Adopting a "Standard Construction Policy" is recommended.)

This individualized Standard Construction Policy should include the following, at minimum:
A statement that all construction will comply with the current edition of the National Electrical Safety Code (NESC);
Minimum pole height and class to be used;
Maximum average pole spacing requirement (ruling span) – suggest 300 ft. or less;
Minimum conductor sizes (and where used), as an example: #1/0 ACSR on section lines, #4 ACSR on taps with currents of less than 10 amperes, etc.
Maximum number of splices per conductor that will be accepted in a mile of line (suggest no more than 4/conductor/mile);
No "automatic" type splices to be used in slack spans;
Copper-clad wire should be replaced as is deemed economical to do so, or for NESC purposes, or due to loss of tensile strength. As an example: Wire conductor found in four (4) spans per mile with conductor sag exceeding twice its designed final sag would be deemed "overstretched" and ruined, and the entire mile should be replaced; wire found with inadequate ground clearance should be re-sagged and corrected. If four (4) or more spans per mile (prorated) are deemed to be out of sag and the tensile strength of the wire has been exceeded, then all wire in that mile should be replaced.

Existing wire and poles may be re-used on a temporary basis in order to restore power, but co-op records should show the intended later replacement under Category F, Utilities (permanent repairs).

NOTE: Temporary repairs are classified as Category B, Emergency Protective Measures, and local cooperative crews can only be reimbursed for overtime only; contract crew eligible expenses are reimbursable at one-hundred percent (100%) under Category B.
Any other specific construction practice that is particular to an individual cooperative should be noted in this "Standard Construction Policy." This policy must be the standard practice at the cooperative, not just for FEMA events.

Other applicable board policies:

Policy # _____ Date: _____

Policy # _____ Date: _____

Sample Policy #1

Your Electric Cooperative Board Policy #___
MANDATORY REST and RECUPERATION LEAVE

WHEREAS, the Board of Trustees deemed it necessary to implement a mandatory Rest and Recuperation (R&R) leave policy for the safety of the XYZ Cooperative employees, staff and the public in general, and

THEREFORE BE IT RESOLVED that the Board of Trustees has enacted a policy that requires all XYZ Cooperative employees to have a minimum of eight hours (8 hrs.) rest at home in each 24-hour period after the first 36 hours of a major storm or disaster; and

BE IT FURTHER RESOLVED that exception to this policy may be made if a specific emergency arises, and the exceptions can be made with the approval of the President of the Board of Trustees.

NOW THEREFORE BE IT RESOLVED that the resolutions hereby adopted shall be effective January 1, 2001.

ADOPTED – Regular Board of Trustees meeting, January 1, 2001
Reaffirmed: September 25, 2002

Sample Policy #2

Your Electric Cooperative Board Policy #___
ADDITIONAL COMPENSATION FOR STAFF and EMPLOYEES

WHEREAS, the Board of Trustees recognizes that employees, staff, management, and their families are placed in dangerous and stressful positions and/or conditions during long power outages caused by adverse weather conditions,

BE IT RESOLVED that at the option of the Board of Trustees and with the recommendation of the Chief Executive Officer,

Cooperative employees may be paid additional compensation for emergency situations up to (blank) percent (___ %) of their annual wages as reported to NRECA, and
Cooperative management and staff may be paid additional compensation for emergency situations up to (blank) percent (___ %) of their annual wages as reported to NRECA.

- ADOPTED – Regular Board of Trustees meeting, Date

PROCEDURE for SECURING EMERGENCY HELP

Survey the extent of damage and determine as nearly as possible the outside personnel and equipment needed.
Contact the TEC Loss Control director and advise the director of your needs.

Name	Work	Home	Mobile	Fax	E-Mail
Tiffin Wortham	512-486-6212	512-899-0971	512-415-0172	512-486-6215	twortham@texas-ec.org
Susan Straughan					

Requesting Assistance from TEC

Cooperative requesting emergency assistance: _____

Telephone number(s):_____
(Use headquarters town name)

Nature of disaster: _____

Number and type of trucks needed: _____

Other equipment and tools needed:

_____

_____

_____

_____

_____

Personnel and classifications needed: _____

Materials needed: _____

Weather and road conditions: _____

Where crews should report and to whom: _____

Estimate of how long the help may be needed: _____

How to contact your cooperative during the emergency: _____

Name of person to receive this information: _____

Date: _____Time:_____

When calling for help, give the following information:
- Nature of emergency
- Number and type of trucks needed

- Other equipment and tools needed
- Personnel and classification needed
- Materials needed
- Weather and road conditions
- Where the crews should report, and to whom
- How to contact your cooperative
- Name of person to receive this information
- Telephone numbers other than normal usage

Key TEC staff that may be able to assist you:
The main number at TEC is 512-454-0311.
TEC telephone extensions and home numbers for key staff are as follows:

- Mike Williams, 512-486-6203 Office---(512) 736-4361 Cell
- Eric Craven, 512-486-6222 Office (512) 750-6725 Cell
- Tiffin Wortham, 512-486-6215 Office---(512) 415-0712 Cell
- Johnny Andrews, 512-868-8330 Office---(512) 426-1567 Cell

To facilitate giving of above information over substandard communications media, or when the message must be relayed through persons unfamiliar with the terms, use the "Form For Requesting Assistance". (See next page.)

TEC Plan of Action

- The person at statewide receiving any call for help will attempt to learn:
- The nature of the emergency and its apparent severity,
- What has been done,
- Who has already been contacted,
- What help the cooperative thinks it will need,
- Where they want help to report, and to whom,
- What equipment and materials are needed first,
- A rough guess as to how long help may be needed, and
- What means of communication seems likely to serve best.

After alerting the TEC General Manager, TEC Loss Control will start immediate action to enlist appropriate help. All calls and assignments will be logged in such manner that others can immediately determine what has been done.

Basic Safety Rules

All safety rules shall be observed with particular emphasis on the following:

1. Rubber Gloves:
   a. Rubber gloves shall be worn by all personnel from ground to ground when performing work on any pole or structure carrying energized conductors.
   b. Rubber gloves shall be put on before any energized URD compartment or enclosure (including service pedestals) is opened and kept on until the compartment or enclosure is closed and locked or until all equipment is properly grounded, barricaded, and shielded.
   c. Rubber gloves must be worn at all rimes when using hot sticks of any kind.
   d. Rubber gloves must not be used for direct hand contact on voltages above 5,000 volts except while using properly rated gloves and sleeve from fully insulated aerial devices.
   e. Personnel handling butts of poles or any object that might come in contact with energized conductors or apparatus must wear rubber gloves.

2. Grounding:
   a. All de-energized conductors and apparatus must be grounded with adequate ground jumpers on all sides as close to work areas as possible before further work on conductors or apparatus involved is begun. Line jumper is not to be considered as an adequate ground.
   b. Ground jumpers must be attached and detached with hot stick.
   c. All conductors including floating, fallen, or broken conductors must be regarded as energized until properly de-energized, tested, and grounded.
   d. Pole-setting truck must be grounded when setting or pulling poles in or near energized lines. Points of disconnection must be identified by approved ground jumper installed by each and every crew working on this section regardless of ground previously installed by any other crews. These grounds shall not be removed by anyone other than the crew installing them.
   e. Hazardous Energy Control: APPA Safety Manual, Section 626, parts A, B, and C. If a system operator is in charge of the line or equipment and their means of disconnections, the following steps shall be taken:
      2. A designated employee requests that the system operator de-energize the equipment. This designated employee becomes the employee in charge and is responsible for the clearance.
      3. All means through which sources of electric energy may be supplied to the lines and equipment shall be opened and rendered inoperable, when its design does not permit, and tagged to indicate that employees are a work.
      4. Unless its design does not permit, automatic and remote switches that could cause opened disconnecting means to close shall be tagged at the point of control.
      5. Tags shall prohibit the operation of the disconnecting means and indicate that employees are at work.

6. After the above steps have been taken, the equipment to be worked shall be tested to ensure it is de-energized. Protective grounds shall be installed (refer to OSHA Standard 29CFR 1910.269(n).

7. The equipment may now be worked as de-energized.

8. If two or more independent crews will be working on the same lines or equipment, each crew shall independently comply with the above steps.

9. Transfer of clearance shall be communicated to the system operator and the employees in the crew. The new employee in charge shall now be responsible for the clearance.

10. Clearance release requires the employee in charge to notify the employees under his direction that the clearance is to be released, determine that employees in the crew are clear or overhead lines and equipment, determine that protective grounds have been removed, report this information to the system operator, and release the clearance.

11. The person releasing the clearance shall be the same person who requested it, unless the responsibility has been properly transferred.

12. Tags may not be removed unless the associated clearance has been released.

13. Only after all the above have successfully accomplished, may the lines and equipment be re-energized.

f. If no system operator is in charge of the lines or equipment and their means of disconnection, one employee in the crew shall be designated as being in charge of the clearance. The employee in charge shall then take the place of the system operator and complete steps (2) through (13) above.

g. If only one crew will be working on the lines or equipment and if the means of disconnection is accessible and visible to and under the sole control of the employee in charge, then steps (1), (3), (4), (8), and (12) under (e) in this section need not be taken.

h. For more information, refer to OSHA Standards 19CFR 1910.269 and 29 CFR 1910.147.

3. Operating of switching devices—an approved hot stick must be used to open or close O.C.R's cut-outs, switches or jumpers being used as a disconnecting device.

4. Operations of cooperative motor vehicles—cooperative personnel must drive cooperative vehicles in accordance with state traffic laws.

5. APPA Safety Manual, Section 6, Parts B and C.

b. At least two employees will be present while the following types of work are being performed (except as noted in © below).

1. Installation, repair or removal of de-energized lines if an employee is exposed to contact with other parts energized at more than 600 volts.
2. Installation, repair or removal of lines energized at more than 600 volts.

3. Installation, repair or removal of equipment such as transformers, capacitors and regulators, if an employee is exposed to contact with parts energized at more than 600 volts.
4. Work involving the use of mechanical equipment, other than insulated aerial lifts, near parts energized at more than 600 volts.
5. Any other work that exposed an employee to electrical hazards greater than those listed above.

c. Two employees do not need to be present in the following operations:

1. Routine switching of circuits (if it can be done safely).
2. Work performed with live-line tools if the employee is positioned so that they are not within reach of or otherwise exposed to energized parts.
3. Emergency repairs necessary to safeguard the general public:

6. Testing poles—any employee, before climbing any pole, shall take every possible precaution to insure that it is safe to climb or work upon. If pole is to be dismantled or direction of strain is to be changed, pole must be tested below ground-line or safe guarded by adequate supports. Also, anchor rods must be checked.

7. No person will be permitted to work while under the influence of alcohol or drugs. It is recommended that no employees indulge in drinking or take drugs that could impair judgment or mote skills while off duty during an emergency.

Member Communications

Unopened food freezers can maintain stored frozen foods safely from 36 to 48 hours depending upon the amount of food stores, capacity of the freezer and the normal temperature of operation of the freezer. Sources of dry ice, quantities available and prices will be determined by your statewide if requested.
During prolonged outages, dry ice can save thousands of pounds of stored food in a disaster area. Power suppliers can supply a real service during disasters by knowing where dry ice can be secured and even making arrangements in advance for it to be sent to a central location, whereby local radios can inform people of its availability.

Experience during past hurricanes and ice storms points out the necessity of assigning,in advance; a member of your staff who will handle member relations during times of disaster. It is important that he make arrangements with radio stations to keep them informed of your systems' plan for re-establishing service. When telephone services are available, a regular schedule should be set up with a direct circuit from the cooperative office to the radio station that will enable the manager to maintain contact with members.

There are many cases where members are isolated due to road conditions and they should be warned about energized lines which are down, they should be encouraged to notify the cooperative office when they notice broken lines, poles down, etc. They should be informed as to how your method of re-establishing service is progressing. Members cannot be expected to know when service to your substation has caused their outage. By keeping them thoroughly informed, you will be performing a vital member service and one that can pay handsome dividends for years to come.

In every cooperative area, there are dairies, hatcheries, etc. which must have electric service, certainly during part of the outage, therefore, it is recommended that a survey be made to determine the availability of portable generators of 5 KW and above. For example: In certain portions of Texas, the National Guard has available portable generators for providing emergency service of this nature. In emergencies, these units are moved from dairy to dairy to provide power for milking. Continuous power is necessary for hospitals or in houses where someone is seriously ill. These portable generators therefore are most important.

Uniform Method of Reimbursement

It is suggested that co-ops requesting assistance will reimburse the providers of the assistance the provider's actual labor, equipment and materials costs. It is suggested that the rate of pay for labor is at least time-and-a-half for all hours worked.

Every reasonable precaution shall be used to determine whether an employee is mentally and physically qualified to follow safe work practices. The crew foreman of the co-op providing the assistance will determine the total number of continuous work hours.

It is also recommended that the current FEMA Cost Code listing be considered.

TEC Mutual Aid Agreement

In consideration of the mutual commitments given herein, each of the Signatories to this Mutual Aid Agreement agrees to render aid to any of the other Signatories as follows:

1. Request for aid The Requesting Signatory agrees to make its request in writing to the Aiding Signatory within a reasonable time after aid is needed and with reasonable specificity. The Requesting Signatory agrees to compensate the Aiding Signatory as specified in this Agreement and in other agreements that may be in effect between the Requesting and Aiding Signatories.
2. Discretionary rendering of aid. Rendering of aid is entirely at the discretion of the Aiding signatory. The agreement to render aid is expressly not contingent upon a declaration of a major disaster or emergency by the federal government or upon receiving federal funds. Invoice to the Requesting Signatory. Within 90 days of the return to the home work station of all labor and equipment of the Aiding Signatory, the Aiding Signatory shall submit to the Requesting Signatory an invoice of all charges related to the aid provided to this Agreement. The invoice shall contain only charges related to the aid provided pursuant to this Agreement. Charges to the Requesting Signatory. Charges to the Requesting Signatory from the Aiding Signatory shall be as follows:
3. Labor force. Charges for labor force shall be in accordance with the Aiding Signatory's standard practices.
4. Equipment. Charges for equipment, such as bucket trucks, digger derricks, and other special equipment used by the aiding Signatory, shall be at the reasonable and customary rates for such equipment in the Aiding Signatory's location.
5. Transportation. The Aiding Signatory shall transport needed personnel and equipment by reasonable and customary means and shall charge reasonable and customary rates for such transportation.
6. Meals, lodging and other related expenses. Charges for meals, lodging and other expenses related to the provision of aid pursuant to this Agreement shall be the reasonable and actual costs incurred by the Aiding Signatory.
7. Counterparts. The Signatories may execute this Mutual Aid Agreement in one or more counterparts, with each counterpart being deemed an original Agreement, but with all counterparts being considered one Agreement.
8. Execution. Each party hereto has read, agreed to and executed this Mutual Aid Agreement on the date indicated.

Date_____ Entity_____

By _____

Title_____

TEC Additional Comments

1. The Texas Electric Cooperatives Loss Control Advisory Committee hereby recognizes the need to update and amend this manual, preferably on an annual basis. This document should certainly be reviewed shortly after a disaster event has occurred in the state, and which has affected any TEC member-system cooperative. Additional recommendations and suggestions will be added as necessary, and will serve as additional attachments or amendments to this text.

2. It is further recommended that the TEC Loss Control Advisory Committee, along with the TEC Directors, review and update the TEC Mutual Aid Plan for the Electric Cooperatives of Texas on an annual basis. Such review should include: **1**) an update of names, addresses and phone numbers (to include emergency contact phone numbers) of all in-house contractors used by cooperatives in the state; **2**) an updated listing of the current safety practices, rules, and regulations as adopted by the TEC Safety and Loss Control Advisory Committee and the TEC Board of Directors, including any amendments thereto; **3**) an annual study of wages paid to assisting co-op personnel, to include an analysis of wages paid to assisting line crews from other surrounding states; and, **4**) a review of billing rates for equipment and vehicles used during emergency restoration services and in subsequent permanent repair efforts during the days and weeks following a declared disaster.

3. It is strongly recommended that an inventory of materials be commenced by the assisting cooperative for all vehicles and equipment to be used during the emergency restoration period, and that such an inventory be conducted before vehicles are sent to an affected co-op, and after work has been completed.

4. The assisted cooperative may either return the borrowed materials OR reimburse the assisting cooperative for materials replacement.

5. TEC should appoint a designated person from its staff to serve as an official liaison to both Texas Emergency Management (TEM) and the Federal Emergency Management Agency (FEMA).

6. Such liaison should work with officials from TEM and FEMA before, during, and after all declared disasters within the state of Texas. Additionally, said TEC liaison should stress the importance of applicable Codes and Standards that all Texas electric cooperatives are required by law to abide by and to apply such Codes and Standards during the Emergency Protective Measures period and during permanent repair efforts.

7. The Committee hereby recommends that TEM officials be trained in the knowledge of applicable electric Codes and Standards, specifically the current version of the National Electrical Safety Code (NESC).

8. The Committee further recommends that FEMA auditors be consistent in both personnel and their findings among audited cooperatives.

9. The Committee suggests that TEC contract with or arrange for TEM officials to conduct an annual training seminar for cooperative personnel on disaster-related topics, including but not limited to: Public Assistance, Response and Recovery, Disaster-related Mitigation, and Hazard Mitigation.

10. Finally, the Committee recommends that, within 60 to 90 days following a disaster-related event, an in-depth analysis of the response and recovery effort by affected cooperatives be conducted in order to make necessary improvements, changes or corrections to the TEC Mutual Aid Plan and to this disaster response and recovery guidebook.

Mutual Aid Agreement Participants – Management Issues

1. Mutual Aid Agreements between cooperatives and/or other organizations should be reviewed annually. Such agreements should specify the type of assistance each participant shall provide, and at what cost. The Mutual Aid Agreement should stipulate that the "helping partner," the participant responding to a request for help from the affected system, shall bill all costs at their normal rates; any "adders" should be specified and detailed in the agreement.

2. "Projects of Work," or "PWs," should specify verifiable quantities of work to be done whenever possible. Cooperative personnel must be prepared to explain cost over-runs or reasons for higher costs than were estimated in the original PW. Each state's Emergency Management Agency should be contacted immediately if an over-run is anticipated. Such constant tracking of a PW's progress may necessitate the use of a full-time accounting manager or project accountant for FEMA-related work. Such assignment would be added to the cooperative's "Administrative Costs" for the project.

3. Consider the assignment or designation of someone to be the co-op Project Officer throughout the course of the disaster response and recovery. Such person could be from within the cooperative, or on loan from another system outside the disaster area. The Project Officer's duties could include the following:

    a.) Assistance in evaluating and estimating the extent of damage to the cooperative's system;
    b.) Assistance in securing available contractors and bid lists once the 70-hour Emergency Protective Measures period has passed;
    c.) Coordinating with all other cooperative departments, including but not limited to management, accounting, engineering, operations, purchasing, and warehouse operations, to ensure an orderly assessment of needs by each department, and assistance in helping individual departments meet necessary requirements during the disaster response and recovery process. Such requirements would include ensuring environmental compliance via contacts with each state's Department of Environmental Quality (DEQ), One-call digging notification, State Historic Preservation offices and each state's Archeological Survey notification, as well as each state's Floodplain Administrator office notification.
    d.) The co-op Project Officer could also coordinate the establishment of temporary storage areas for debris, and assist in dispensing state emergency management Environmental Release Forms and Historic Site Preservation Forms to individuals or groups who contact the cooperative regarding the re-use of damaged or destroyed wood poles.
    e.) Other duties possibly assigned to the co-op Project Officer would be the evaluation of material acquisition, material dispensation, compilation of staking sheets during both the Emergency Protective Measures period and the Utilities (permanent repairs) period, and ensuring that all required maps, invoices, time sheets, and other paperwork documentation relevant to the specified disaster be collected and retained in an orderly fashion for future review by FEMA and OIG.

4. Send personnel from the accounting, operations, and engineering departments to the FEMA Applicant Briefing meetings and sign up for assistance as soon as possible. To the best of your ability, make sure original estimates of damage are thorough and comprehensive. Underestimating disaster damages could create additional PWs or delay reimbursements.

5. Management may wish to implement a policy that designates key employees and supervisors be available 24-hours per day, 7 days per week during the disaster, with work schedules to be determined by department heads in conjunction with the manager/CEO.

6. Communications, marketing, and/or public relations personnel may be utilized or designated to deliver material, equipment, and/or food (meals) to crews in the field, depending upon the personnel's knowledge of the distribution system and their certification on equipment or in materials handling.

7. As soon as possible, preferably during the first 70 hours of the disaster (FEMA's usual definition of Category B, Emergency Protective Measures), contact in-house contractors and those whose bids have been accepted and determine the length of time the contractors' emergency rates are to be in effect. Do not accept a contractor's argument that FEMA will automatically pay for extended work periods utilizing emergency rates. Also, unless other arrangements are made, advise contractors that after the initial 70-hour Emergency Protective Measures period, meals and lodging will no longer be paid for by the cooperative, but should be arranged and paid for by the contractor, with copies of meal and hotel receipts to be attached to weekly invoices supplied to the cooperative. Said meal and hotel tickets should list the names of crew members and corresponding room numbers at hotels to account for appropriate meal and lodging expenses. (Reference current IRS per diem guidelines.)

8. It is strongly recommended that additional engineering resources be arranged to assist in the daily development of staking sheets, material sheets, and work order information. This will allow the staking department to stay ahead of construction crews, and provide for a more orderly flow of necessary and vital information to other key departments.

9. The engineering department should begin solicitation of at least three (3) bids from contractors as soon as possible, even before the full extent of damage to the system has been determined. Both FEMA and the OIG require that bids be procured for all permanent restoration work to be done by contractors. Make sure that any 'verbal contracts' are converted to written agreements to be shown to auditors.

10. Whenever it appears that consumers may be without electric power for several days or weeks, consider hiring security guards to be in place at office headquarters and warehouse facilities. This generally eliminates the possibility of hostile issues with consumers and sends a message that personnel, material, and equipment are being safeguarded. Once the cooperative nears completion of its service restoration efforts to residential customers, the security arrangement may then be terminated.

11. It is not uncommon for employees to retire, quit, or ask for re-assignment during or following a disaster. Carefully evaluate the need for cooperative linemen to work at night;

their most effective work and/or leadership will most likely be during daylight hours, when damage to the system is clearly visible and when they have been adequately rested.

12. Document the first day of the outage and the day the last consumer's service was restored. This may impact various FEMA Categories A through F on your co-op's Force Account Labor statistics.

13. Have an Organization Chart of all cooperative employees, indicating what area or department they worked in before and during the disaster. This will help resolve questions about force account labor when it is classified into Categories A, Debris Removal; B, Emergency Protective Measures; and F, Utilities (Permanent Repairs).

14. Consider the development of a Rest and Recuperation Policy (R & R) for employees. Such policy should be designed for the safety and well-being of the cooperative's employees, and for the general public. The policy should be developed by management, and approved/adopted by the co-op's board of trustees. If such a policy is enacted during the disaster, the date and time should be noted in the form of a written memorandum.

15. Insurance claims filed with FEMA should have a disclaimer from the cooperative's insurance carrier. Have copies of all insurance policies available for inspection by state emergency management, FEMA, and OIG personnel.

16. Insist that daily time sheet entries be made by all personnel, listing hours worked, names of crew members, and location work was performed; document, with narrative descriptions, any work performed by office personnel if it is related to field work, i.e., delivery of meals or materials and equipment, warehouse work, etc.

17. Management should be prepared to explain the process that the cooperative used to select work crews, whether such crews were from other co-ops or were contract crews. Explanation of the cooperative's action plan and methodology used in selecting various contractors may be necessary, including lists of equipment needed and rationale used to determine which contractors and crews would be utilized.

18. Send groups of employees to state emergency management agency and FEMA training; this denotes the co-op's dedication to being properly prepared.

Rest & Recuperation Leave Sample Policy

Your Electric Cooperative Board Policy #___

MANDATORY REST and RECUPERATION LEAVE

WHEREAS, the Board of Trustees deemed it necessary to implement a mandatory Rest and Recuperation (R&R) leave policy for the safety of the XYZ Cooperative employees, staff and the public in general, and

THEREFORE BE IT RESOLVED that the Board of Trustees has enacted a policy that requires all XYZ Cooperative employees to have a minimum of eight hours (8 hrs.) rest at home in each 24-hour period after the first 36 hours of a major storm or disaster; and

BE IT FURTHER RESOLVED that exception to this policy may be made if a specific emergency arises, and the exceptions can be made with the approval of the President of the Board of Trustees.

NOW THEREFORE BE IT RESOLVED that the resolutions hereby adopted shall be effective January 1, 2001.

ADOPTED – Regular Board of Trustees meeting, January 1, 2001
Reaffirmed: September 25, 2002

Your Electric Cooperative Board Policy #___

ADDITIONAL COMPENSATION FOR STAFF and EMPLOYEES

WHEREAS, the Board of Trustees recognizes that employees, staff, management, and their families are placed in dangerous and stressful positions and/or conditions during long power outages caused by adverse weather conditions,

BE IT RESOLVED that at the option of the Board of Trustees and with the recommendation of the Chief Executive Officer,

A. Cooperative employees may be paid additional compensation for emergency situations up to (*blank*) percent (___ %) of their annual wages as reported to NRECA, and
B. Cooperative management and staff may be paid additional compensation for emergency situations up to (*blank*) percent (___ %) of their annual wages as reported to NRECA.

ADOPTED – Regular Board of Trustees meeting, *Date*

All construction will meet all National Electrical Safety Code (NESC) requirements.

According to RUS standards, all new construction will be at 14.4/24.9 kV.

It is our goal to replace all copper lines with ACSR. Old copper and SCG wire should be replaced:

1. If four locations per mile have insufficient ground clearance based upon current code, replace whole mile;
2. If more than two splices per quarter mile, per conductor, replace the entire conductor in the mile (at least from dead-end to dead-end).
3. When wire is damaged or stressed: Wire shall be deemed stressed when sag is found more than two times normal sag.
4. Document the reasons for the changes.

Re-tensioning should be done from dead-end to dead-end, not cut and spliced every span.

The minimum pole height and class for primary distribution will be 35 ft., Class 5.
The minimum pole height and class for three phase construction for #1/0 ACSR and smaller is 35 ft, Class 5; for #4/0 and larger is 35 ft., Class 4.
The minimum pole height and class for secondary, service, or overhead guy stub poles will be 30 ft., Class 6.

Surge arrestors are to be installed every one-quarter mile (1/4 mi.).

Minimum wire size will be:

#1/0 ACSR on taps.
#1/0 ACSR on three-phase, or down the road (minor) feeders.
#4/0 ACSR for main feeders.

The Cooperative does not normally pay the contractor for retirement of salvaged material because the salvage value of the usable material is less than the labor cost to retire it.

The recommended maximum span length for single-phase construction is 300 ft.; for three-phase construction is 300 ft.

No reduced neutrals shall be used on any new construction except large feeder conductor (#4/0 ACSR or larger).

Primary highway road and railroad crossings shall get double support (A1-1, B1-1, or C1-1) construction.

All Self-Protected (SP) Transformers with flipper-type fuses use 25 kVA and smaller transformers. Any transformer above 25 kVA will use a pole-mounted fuse, cutout, and arrester. Retire all Completely Self-Protected (CSP) transformers when necessary and replace with conventional transformers.

The above are Minimum Standard Construction Practices which are recommended to the Board of Trustees of XYZ Cooperative for their approval.

Electric Cooperative's Guidance in FEMA Declared Disasters

FEMA Enabling Legislation

STAFFORD ACT, Public Law 93-288, known as:
The Robert T. Stafford Disaster Relief and Emergency Assistance Act,
Title 42 U.S.C. # 5121, as revised Sept 1, 1999.

The Stafford Act authorizes the President (FEMA per Executive Order 12673) to provide financial and other forms of assistance to State and local governments, certain Private Non-Profit organizations, and individuals following Presidential-declared major disasters and emergencies. **Electric Cooperatives are eligible under the Private Non-profit status.**

APPLICANT ELIGIBILITY
To be eligible for FEMA re-imbursement, ALL must be eligible, the applicant, the facility, the work and the cost.

RE-IMBURSEMENT
FEMA re-imbursement is 75% of the eligible work. Additional Presidential Declarations may raise this amount in extensive damage and hardship conditions.
Co-ops should treat all FEMA and State funds as a loan until the Co-op has proven, after the fact, that the money was all properly spent on eligible work. Co-ops MUST properly document all work and expenses.

LOCAL CONTACT
Texas Emergency Management will assist Co-ops with their FEMA claims. **TEM should be kept appraised of a Co-op's progress, especially when it becomes apparent that the project may over-run either the quantities measured in the PW or the costs.** Cooperatives should cultivate an open and cooperative relationship with TEM. TEM normally sends a liaison reservist to accompany the FEMA Project Officer. Most are knowledgeable and can help the process.