

Hurricanes Katrina and Rita
FEMA-DR-1603/1607-LA
Information Sheet # 017

MASTER SERVICE AGREEMENTS

Some local governments have entered into Service Agreements or Master Service Agreements (MSAs) with private contractors for management or overview of disaster work related to Hurricanes Katrina and Rita. The agreements typically involve a broadly defined scope of services, which allows the local government to use the contractor for multiple tasks.

An MSA typically includes various taskings or work orders from the PA applicant to the Contractor. These may include: architectural/engineering services, construction and construction management services, procurement assistance (bid document preparation, bid analysis and review, etc.), and other technical services (environmental and historic consulting, etc.). The eligibility of specific costs payable under an MSA depends upon the nature of the associated work – not the fact that the contract requires payment of these items. Each task under the MSA directly related to a specific, FEMA-approved project must be reviewed for eligibility of reimbursement. If eligible, an MSA task shall be incorporated into the Project Worksheet (PW) for the project it is supporting; a separate PW just for MSA activities may not be prepared.

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The following lists items likely to be at issue when considering costs incurred under an MSA:

- All contracts, including MSAs, must be reviewed for compliance with 44 CFR Part 13, the federal requirements for acceptable procurement. At a minimum, contracts that are contingent on the applicant's receipt of FEMA funding and contracts that are based on the contractor's cost plus a percentage of cost are not acceptable.
- MSA tasks must be reviewed to ensure no duplication in scope exists with applicant's staff duties or other contract work.
- All costs incurred in the provision of services under MSAs must be reasonable.
- Procurement of Architectural/Engineering (A/E) services, which may form a component of the overall MSA, may be based on the qualifications of the service provider, subject to the negotiation of fair and reasonable costs (see 44 CFR 13.36(d)(3)(v) for additional information). This method of procurement cannot be used to obtain other services even when the MSA contractor may have the ability to provide them. Guidance on estimating

these costs is set forth in the PA Guide, pages 75-80. Note that any additional charges added to A/E services via the MSA must be reviewed for applicability to the project and may be ineligible for reimbursement.

- MSAs for project management must comply with approved policy. FEMA Policy 9525.6, *Project Supervision and Management Costs of Subgrantees*, sets forth the procedures regarding reimbursement of project management costs, and also discusses the difference between project management and tasks that fall under the administrative allowance. The lines between project management and administrative allowance tasks can be easily blurred. Applicants should be made aware of the difference in reimbursement eligibility.
 - **Project management** is the oversight of an eligible project from the design phase (when necessary) to the completion of the work. Eligible project management activities are those that the applicant would have performed in the absence of federal funding. They are project-specific activities that may include direct management of projects in the concept and design phase, procurement activities for architectural/engineering services and performance of the work, review and approval of project design, project oversight, construction management, construction inspection and testing.
 - Each applicant automatically receives an **Administrative Allowance** calculated as a percentage of total eligible funding received by such applicant in a given disaster (PA Guide, pages 41-43). Examples of tasks covered under this allowance are: identifying damage, writing PWs, attending applicant briefings, completing forms, establishing files and providing documentation, assessing damage, collecting cost data and developing cost estimates. The administrative allowance may not be sufficient to cover all costs that an applicant incurs performing grant administration activities, but excess costs, including costs under a Master Service Agreement for grant administration, will not be reimbursed. See FEMA Policy 9525.11, *Payment of Contractors for Grant Management Tasks*, for additional information.
- Reimbursement for the direct costs of performing specific projects completed using PA funds shall be made through the PW(s) for each project, in accordance with PA policy. Any additional fees charged by the MSA Contractor on top of such direct costs must be necessary and reasonable for performance of the project to be considered eligible. Any general MSA costs not directly related to the performance of a specific, eligible project are not eligible for reimbursement.

If you have questions related to this guidance or a specific issue arises in your review of an MSA, please contact the Office of General Counsel at (225) 389-7302.

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Because this document is not exhaustive, either in topics or in detail, information should be verified with FEMA Public Assistance Program officials before becoming the basis for decision making.