Appendix G: Alternative Procedures for Permanent Work

Alternative procedures offer applicants maximum flexibility in how they use PA funds to restore damaged facilities. Under standard procedures, applicants receive PA funding based on the pre-disaster size, capacity, and function of a damaged facility. However, Section 428 of the Stafford Act authorizes FEMA to award PA funding based on estimates which are "fixed" or capped for large permanent work projects through alternative procedures. These procedures can only be applied to large projects.

Alternative procedures projects enable applicants to actively shape their recovery outcomes by considering the community's hazards, risks, exposure, and vulnerability and how they can be mitigated. There are several benefits for applicants when they choose alternative procedures, including less itemized cost tracking and increased flexibility of funding and restoration. This structure allows applicants to focus on long-term recovery, make strategic use of available funds, and maximize opportunities for hazard mitigation and resilience improvements.

I. Differences Between Standard and Alternative Procedures

Table 35. Differences Between Standard and Alternative Procedures

Consideration	Standard Procedures	Alternative Procedures
Funds	▪ Actual cost project. No retention of excess funds associated with the approved project; and, ▪ Can only use funds toward the specific work identified in each specific project.	▪ Fixed-cost project with use of excess funds; and, ▪ May use funds across all alternative procedures projects.
Tracking	▪ Must track costs specific to each work item within each individual project; and, ▪ Must track all work specific to each individual project.	▪ Do not need to track costs to specific work items. Only need to track the total costs associated with the alternative procedures projects; and ▪ Do not need to track work to specific projects. Only need to substantiate that the work is related to the approved scope of work (SOW) covered in the alternative procedures projects.

Consideration	Standard Procedures	Alternative Procedures
Amendments	▪ After FEMA approves a SOW, FEMA requires approval for any change to the SOW; and, ▪ Must track costs associated with all changes to the SOW.	▪ After FEMA approves a SOW, FEMA only requires approval for changes that involve buildings or structures that are 45 years or older, ground disturbing activities, or work in or near water; and, ▪ Do not need to track costs associated with changes to the SOW.

II. Fixed Cost Estimate

Under alternative procedures for permanent work, FEMA funds large projects based on a fixed cost estimate instead of the actual costs reconciled at closeout. FEMA, recipients, and applicants must agree to the damage description and dimensions (DDD), Scope of Work (SOW), and resilience initiatives through hazard mitigation for a project before the fixed cost estimate is developed either by FEMA or provided by the applicant.

FEMA caps PA funding for an alternative procedures permanent work project based on the aggregate federal share of the approved estimated cost:

- To restore the damaged facilities to pre-disaster design and function in accordance with eligible codes and standards; and,
- For cost-effective PA mitigation measures associated with the actual restoration SOW that the applicant will perform.

The following are allowable costs for the cost estimate.

A. Architectural, Engineering, Environmental Review, and Design Fees

FEMA provides funding to support the development of complex projects that require an architectural, engineering, or environmental design. FEMA develops a project that includes the description, parameters, and cost estimate of the required design which is ultimately included in the fixed cost estimate for the associated project. FEMA also includes any design fees for services necessary to complete the restoration project SOW in the cost estimate.

B. Construction and Other Restoration Costs

FEMA includes all eligible construction costs or other costs necessary to complete the eligible SOW, including:

- Required permitting fees;
- Costs for necessary project and/or construction management services;
- Funding required for:

- Codes, specifications, and/or standards or industry standards;[507]
- Any applicable consensus-based code, specification; and/or standard that the applicant identifies for the facility; and/or,
- Any approved industry standard as applicable under the Bipartisan Budget Act[508].

C. Expert Panel Cost Estimate Review

A FEMA-funded, independent third-party panel of cost estimating experts may review project estimates. FEMA does not use this panel for appeals. The review is limited to issues pertaining to the estimated cost and the panel does not make decisions related to the eligibility of work. However, it may make determinations about whether cost elements are required to execute the SOW. The panel may review cost documentation for completed work, if necessary. [509]

- FEMA may request the independent panel review for any cost estimate.
- The Applicant may request the panel review the estimate for any project with an estimated Federal share of at least $5 million.

D. Public Assistance Hazard Mitigation

PA hazard mitigation funds can be added to project funding for repairs on disaster-damaged facilities to help prevent future damage. When applicants repair the function of a facility but adjust its pre-disaster capacity, the proposed PA mitigation SOW is based on the actual work being done. However, cost-effectiveness is assessed according to the fixed amount set for restoring the facility to its pre-disaster condition. If the facility's capacity is increased, the mitigation SOW and costs are limited to what is needed to protect the facility at its original, pre-disaster capacity.

Approved mitigation proposals are included as a separate fixed cost amount within the subaward and must align with the actual recovery work planned. This hazard mitigation SOW and cost estimate are separate from the repair project itself. If the approved PA mitigation is not completed, FEMA will reduce the fixed cost amount by the portion intended for hazard mitigation.

III. Fixed Cost Offer

To develop the fixed cost offer FEMA engages with qualified engineers and architects, cost estimators, construction managers, and other technical experts as necessary to develop or validate cost estimates for large permanent work projects.

FEMA transmits the cost estimate as a fixed cost offer to the applicant via PA Grants Manager/Grants Portal for consideration. If applicants accept the fixed cost offer, the project is considered an alternative

[507] For more information, refer to Codes and Standards in Chapter 8.
[508] For more information, refer to: BBA Policy (September 2018).
[509] For more information, refer to: Stafford Act § 428, 42 U.S.C. § 5189

procedures project. The deadline for accepting the fixed cost offers is described below under Fixed Cost Offer Deadlines.

FEMA considers the fixed cost amount reasonable and eligible if there is no evidence of fraud and the applicant complies with federal grant conditions, including procurement requirements. Fixed cost estimates must also be reduced by all applicable credits, such as insurance proceeds and salvage values.[510] Obligation of the project constitutes FEMA's acceptance of the fixed cost amount. Once an applicant accepts a fixed cost offer, the project cannot revert to standard procedures.

Once FEMA, the recipient, and the applicant agree to the fixed cost estimate for the subaward, there will be no further adjustment, except for insurance adjustments and adjustments for approved SOW changes associated with hazard mitigation. FEMA's cost estimating format includes contingency factors for hidden damage, unforeseen environmental and permitting requirements, and other unidentified circumstances.

If the final actual costs are more than the approved fixed cost award, FEMA will not approve additional funds. If the final actual costs are less than the subaward, the applicant may use the excess funds as described below under the Excess Funds section of this appendix.

A. Fixed Cost Offer Deadlines

FEMA, the recipient, and the applicant must reach a fixed cost agreement within 18 months of the declaration date. Recipients and applicants have a combined total of 30 days to accept fixed cost offers from the date of FEMA's transmittal. If fixed cost offers are not accepted within 30 days, If the applicant does not accept the fixed cost offer, the project is processed utilizing standard procedures and final funding will be based on actual costs. The flexible use of funds and the use of excess funds are not available under standard procedures.

Any time extensions to accept fixed cost offers must be approved by FEMA's Assistant Administrator for Recovery before the deadline. If an applicant is requesting a project for only architecture and engineering (A&E), it must determine the actual SOW to be performed before a fixed cost offer is transmitted.

IV. Use of Funding

Applicants may share funds from the fixed cost subaward across all alternative procedures for permanent work projects for:

- Repair, restoration, or replacement of disaster-damaged facilities and equipment;
- Construction of new facilities to include land acquisition;
- Purchase of equipment; or
- Cost effective hazard mitigation measures that reduce future risk.

[510] Stafford Act § 312, 42 U.S.C. § 5155, and 2 C.F.R. § 200.406.

If funds for PA hazard mitigation are included in the fixed cost subaward, applicants must complete the approved scope of work of the hazard mitigation in order to retain the mitigation funding. If an applicant is considering abandoning or demolition of the original facility see Chapter 10: Environmental and Historic Preservation for more information on the limitations and requirements.

A. Excess Funds

Applicants request to use the funds for designated activities in the "Eligible with Fixed Cost Funds" column in Table. Eligible Work and Costs for Use of Fixed and Excess Funds below. Once FEMA approves – and applicants complete – the SOW associated with these activities, applicants may use any excess funds for the expanded list of eligible activities listed under the "Eligible with Excess Funds" column.

Any excess funds remaining after the approved SOW is complete may be used for cost-effective activities that reduce the risk of future damage, hardship, or suffering from a major disaster, and activities that improve future PA operations or planning. Applicants must submit a proposed SOW for use of any excess funds, along with a project timeline, to the recipient within 90 days of completing its last alternative procedures project. Recipients must forward the request to FEMA within 180 days of date the last alternative procedures project was completed. Applicants can submit a request for a time extension to this deadline to FEMA for consideration.

FEMA evaluates the proposed use of excess funds for reasonableness to ensure prudent use of funds. FEMA also evaluates the submitted project timeline and approves an appropriate deadline for work completion, not to exceed the overall disaster period of performance.

The following table lists examples of eligible and ineligible types of work and costs when using fixed cost funds and excess funds. All work must otherwise be eligible for PA.

Category I projects cannot be included in an alternative procedures for permanent work project.

Table 36. Eligible Work and Costs for Use of Fixed Cost and Excess Funds

Type of Work or Cost	Eligible with Fixed Cost Funds?	Eligible with Excess Funds?
Restoration of disaster-damaged facilities and equipment	Yes	Yes
Alternate projects (e.g., purchasing equipment, constructing new facilities, improvements to undamaged facilities such as shelters and emergency operation centers) in declared areas	Yes	Yes
Cost-effective hazard mitigation measures for undamaged facilities	No	Yes
Covering future insurance premiums, including meeting obtain and maintain (O&M) insurance requirements, on damaged or undamaged facilities	No	Yes

Type of Work or Cost	Eligible with Fixed Cost Funds?	Eligible with Excess Funds?
Work on facilities that are ineligible due to a failure to meet previous O&M requirements	No	No
Conducting or participating in training for response or recovery activities, including federal grants management or procurement courses	No	Yes
Planning for future disaster response and recovery operations, such as developing or updating plans (e.g., debris management plans, hazard mitigation plans, pre-disaster recovery plans, emergency management plans), integrating these plans into other plans, preparedness activities, exercises, and outreach	No	Yes
Salaries for PA or emergency management staff (e.g., staff performing PA award or subaward administration, monitoring, and closeout activities for other PA disaster awards, and staff developing or updating disaster plans)	No	Yes
Paying down debts	No	No
Covering operating expenses	No	No
Covering budget shortfalls	No	No
Covering the non-federal cost share of FEMA projects or other federal awards	No	No

III. Scope of Work Changes

Once the scope of work is approved and a fixed cost offer is accepted, applicants must notify FEMA prior to making scope of work changes that involve:

- Buildings or structures that are 45 years of age or older;
- Ground disturbing activities; or
- Work in or near waterways.

With exception of buildings or structures that are 45 years of age or older, applicants do not need to notify FEMA when they intend to make changes that substantially conform to the approved scope of work. Changes that substantially conform include items, such as:

- Substitutions in material type (e.g., pre-cast concrete vs. steel beam, stainless steel vs galvanized fasteners); or
- Interior floor plan reconfigurations (e.g., adding, moving, or removing rooms/features).

If applicants wish to change the scope of work to the extent that it changes the hazard mitigation or if the scope of work of the hazard mitigation requires an adjustment for any other reason, such changes must be approved within the 18-month deadline and the fixed cost offer amount will be adjusted to reflect the cost of the revised hazard mitigation scope of work.

IV. Closeout Requirements

Work must be completed by the end of the approved alternative procedures project work completion deadline and the recipient must certify that all incurred costs are associated with the approved SOW. Additionally, recipients must certify that subrecipients have completed all work in accordance with FEMA regulations and policies. Recipients must submit their certifications to FEMA within 180 days of the subrecipient completing its last alternative procedures project or the latest alternative procedure project deadline, whichever occurs first, for the subrecipient to retain and use any excess funds.

The closeout certification must include a final report of alternative procedures project costs and documentation to support the following:

- Summary of actual work completed;
- Mitigation measures achieved, if applicable;
- Compliance with EHP requirements;
- Compliance with civil rights requirements;
- Compliance with the obtain and maintain insurance requirement;
- Summary of total actual costs to complete the alternative procedure projects;
- Compliance with federal procurement procedures; and,
- Actual insurance proceeds received.

Subrecipients do not need to track costs to specific work line items. Subrecipients only need to substantiate and certify that all claimed costs are related to the overall work deemed eligible for the alternative procedure projects.

V. Other Considerations

A. Requirement to Obtain and Maintain Insurance

Applicants that receive PA funding for permanent work to replace, repair, reconstruct, or construct a facility must obtain and maintain insurance to protect the facility against future loss.[511] Applicants must comply with this requirement as a condition of FEMA assistance. This requirement applies to insurable facilities or property (buildings, contents, equipment, and vehicles), including those funded as an alternative procedures

[511] Stafford Act § 311; 42 U.S.C. § 5154; 44 Code of Federal Regulations (C.F.R.) § 206 Subpart I; 2 C.F.R 200.310.

for permanent work project.[512] FP 206-086-1 Public Assistance Policy on Insurance[513] describes these requirements in detail.

B. Appeals for Alternative Procedures Projects

FEMA does not grant appeals on alternative procedures permanent work projects, except in cases of a cost adjustment after the fixed-cost offer has been accepted (such as adjustments related to insurance, noncompliance, or audits). Any disagreements regarding damage, SOW, or costs must be resolved before the applicant accepts the fixed cost offer. Additionally, FEMA does not grant appeals on denied time extensions to accept fixed cost offers for alternative procedures permanent work projects.

C. Office of the Inspector General

The Department of Homeland Security's Office of Inspector General (OIG) conducts independent audits and investigations on FEMA programs, operations, activities, and functions; how recipients and subrecipients expend federal funds; and oversight of non-federal audits such as single audits. The OIG evaluates activities to identify, deter, and address fraud, waste, and abuse. The OIG has authority to audit any project, including alternative procedures projects.

[512] 44 C.F.R. § 206.203(d).
[513] For more information, refer to: Public Assistance Policy on Insurance (FP 206-086-1) | fema.gov.