



# FEMA

## Assistance to Firefighters Grant

FAMA / FEMSA  
Annual Meeting

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# Presenter

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# Topics

- What's Happening Within AFG?
- Hot Issues
- Adoption of 2 C.F.R. § Part 200 – “Super Circular”
- Your Questions



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# FY13 Program Updates



Final Award Recommendations



Final Award Recommendations



Final Award  
Recommendations



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# FY14 Program Updates



Fall of 2014



Early 2015



First Quarter of 2015



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# FY 14 Total Appropriation \$680,000,000



\$ 306,000,000



\$ 340,000,000



\$34,000,000



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# Funding Allocations Remain Unchanged

## Allocation requirement (by % of available grant funds)

Not less than 25% to Career fire depts.

Not less than 25% to Volunteer fire depts.

Not less than 25% to Combination fire depts.

Not less than 10% to open competition among Career, Volunteer, and Combination

Not less than 10% to FP&S Grants



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# Funding Allocations Remain Unchanged

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## Allocation requirement (by % of available grant funds)

Not more than 2% to Nonaffiliated EMS organizations

Not less than 3.5% to EMS provided by fire depts. and nonaffiliated EMS organizations

Not more than 3% to all State Fire Training Academy recipients; and not more than \$500,000 to any one recipient

No more than 25% for purchasing vehicles

\* AFG intends to fund the maximum available for the purchase of vehicles

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# *HOT* Issues



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# Hot Issues

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## DHS Adoption of 2 C.F.R. § Part 200 – “Super Circular”

- Will supersede and streamline administrative requirements and cost principles into one single part of the C.F.R..
- Emphasis on Conflict of Interest , Procurement and Competition

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## Consensus Standards

- Equipment requested **shall** meet or exceed any voluntary national, state, and/or DHS-recognized consensus standards (e.g. Thermal Imaging Cameras; P25 Compliant Communications Equipment)



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# Hot Issues

## Communications – P25 Compliance Requirement

- SAFECOM adherence will be part of the grant terms & conditions
- All applicable grant funded communications equipment MUST be P25 compliant

## Accurate Price Estimates

- Increased incidents of inaccurate price estimates
- Greater focus by FEMA on accurate award amounts (e.g. multi unit order prices)
- Excess funds will be capped at \$10,000, if approved by FEMA.

## Period of Performance

- AFG grants have a one year period of performance (365 days)
- Scope of work should be planned for and completed within one year
- Market research to include technical specifications and pricing prior to application submission.



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# 2 C.F.R. – Procurement Integrity in the “Super Circular”



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## 2 C.F.R. – The “Super Circular”

- No later than December 26, 2014, DHS must adopt new regulations which address the management of Federal Grants.

### *2 C.F.R. § Part 200....AKA “Super Circular”*

- Will supersede and streamline administrative and audit requirements and cost principles for Federal grants into a single Part of the C.F.R.
- Similar to previous regulations with some exceptions



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# 2 C.F.R. – The “Super Circular”

## §200.318 General procurement standards.

(a) The non-Federal entity **must use its own documented 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.

### What does this mean:

- Grantees **must** have written procurement policies



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# 2 C.F.R. – The “Super Circular”

## §200.319 Competition

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. **In order to ensure objective contractor performance and eliminate unfair competitive advantage, *contractors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements.***

### What does this mean:

- Vendors who wish to bid on a specific procurement may not assist in the developing or drafting of that procurements:
  - RFP’s or Invitation for Bids
  - Preparation of “draft” specifications



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# 2 C.F.R. – The “Super Circular”

## §200.319 Competition

(a) (con’t)...Some of the situations considered to be restrictive of competition include but are not limited to:

- (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (2) Requiring unnecessary experience and excessive bonding;
- (3) Noncompetitive pricing practices between firms or between affiliated companies;
- (4) Noncompetitive contracts to consultants that are on retainer contracts;
- (5) Organizational conflicts of interest;
- (6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- (7) Any arbitrary action in the procurement process.



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# 2 C.F.R. – The “Super Circular”

## §200.318 General procurement standards.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal government, **the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.**

### What does this mean:

- If the grantees written procurement policy allows, the use of State contracts; tag-on contracts for *like* equipment; GPO's; GSA; HGAC; purchasing schedules, etc. may be allowable, provided the grantee follows their applicable procurement regulations.



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# 2 C.F.R. – The “Super Circular”

## Competition

*What options do grantees have for obtaining the required technical assistance from vendors necessary to obtain the needed services or equipment awarded under the grant?*

- Grantees may obtain technical specifications from vendors, but may not reproduce those specifications in the same, or similar format in which they were received.
- Grantees should work to ensure that bid specifications are prepared in a manner that does not lend to perceived conflict of interest, real or apparent, with one manufacturer or vendor over another.
- While fair and open competition is the goal, nothing prevents grantees from specifying their **genuine** requirements.



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## 2 C.F.R. – The “Super Circular”

### Other Possible Options to Ensure a Compliant Grantee – Vendor Relationship:

- Grantees produce unique bid specifications that are not a reproduction of a vendor’s specification. Specifications must also avoid the use of “brand name” or vendor specific terminology, unless done so in compliance with Federal regulations, including 2 C.F.R. §200.319(c).
- Grantee’s use of existing specifications from other departments (no direct pass-through from vendor to grantee).



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# 2 C.F.R. – The “Super Circular”

## Other Possible Options to Ensure a Compliant Grantee – Vendor Relationship (con’t):

- Grantee ensures that it’s written procurement policies have been updated and reflect the procurement methods available to them through the C.F.R., such as the Simplified Acquisition Threshold.
- Avoid the appearance of a conflict of interest.



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# 2 C.F.R. – The “Super Circular”

## §200.318 General procurement standards (Protests)

(k) The non-Federal entity alone must 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 non-Federal entity of any contractual responsibilities under its contracts. **The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.**

### What does this mean:

- Generally, the grantee is responsible to settle bid and contract disputes and protests under applicable state and local law, or in some cases Federal law.
- The Federal government will only intervene when there is a Federal concern or violation of law.
- No change from existing regulation at 44 C.F.R. § 13.36(b)(11).



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# 2 C.F.R. – The “Super Circular”

## §200.320 Methods of Procurement To Be Followed

- (a) Procurement by micro-purchases (less than \$3,000 aggregate purchase)
- (b) Procurement by small purchase procedures. Those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold (\$150,000)
- (c) Procurement by sealed bids (formal advertising).
- (d) Procurement by competitive proposals.
- (e) Reserved
- (f) Procurement by noncompetitive proposals.



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# 2 C.F.R. – The “Super Circular”

## §200.320 Methods of Procurement To Be Followed

### (d) Procurement by competitive proposals.

Generally used when conditions are not appropriate for the use of sealed bids.

- (1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance.
- (2) Proposals must be solicited from an adequate number of qualified sources;
- (3) Must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
- (4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered (i.e. “Best Value”)



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# 2 C.F.R. – The “Super Circular”

## §200.320 Methods of Procurement To Be Followed

### (f) Procurement by noncompetitive proposals.

Procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- (1) The item is available only from a single source;
- (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
- (4) After solicitation of a number of sources, competition is determined inadequate.



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# 2 C.F.R. – The “Super Circular”

## §200.323 Contract cost and price

(a) The grantee must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, ***but as a starting point, the grantee must make independent estimates before receiving bids or proposals.***

### What does this mean:

- Even if a grantee is permitted to use a non-competitive procurement, they must still perform a cost and price analysis.
- If the grantee uses a vendor supplied specification for the purpose of conducting the cost and price analysis, the vendor who supplied the specifications may not be selected to provide the product or service.



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# Questions?



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