

NEWTON COUNTY DEBRIS MANAGEMENT PLAN

SEPTEMBER 2022



NEWTON COUNTY DEBRIS MANAGEMENT PLAN



Newton County Emergency Management

NEWTON COUNTY DEBRIS MANAGEMENT PLAN

PURPOSE

The purpose of this Plan is to provide for coordination of efforts in the clean-up, removal, and disposal of debris following a major emergency or disaster in Newton County.

This plan will serve as the master plan for the county and contains guidance regarding organization, responsibilities, documentation, contracting, activation of the county plan, temporary debris storage sites, informational fact sheets, and samples of agreements and contracts.

The plan also contains guidance to local jurisdictions for development of local plans that will identify the local jurisdiction's debris management organization, assignment of duties, designation of temporary debris storage sites and other items as the jurisdictions desire.

SITUATION & ASSUMPTIONS

Situation

1. Debris may be the result of natural, man-made, and technological hazards.
2. Some or all jurisdictions within Newton County may experience events which result in large amounts of debris that may adversely affect public safety.
3. Communities have varying and unique circumstances that could impact the types and amounts of debris and the responses to debris cleanup. These may include types of local business/industry, land use, size of the community, topography, and economics.
4. Jurisdictions must be prepared to conduct emergency debris removal on their own during the initial phases of an emergency or disaster and must consider public safety as their first and top priority.
5. Individuals and businesses will be responsible for the removal and disposal of debris on private property.
6. Debris management activities can be a major burden on the time and resources of everyone affected.

Assumptions

1. Extraordinary demands will be placed on public and private resources for debris management following a disaster event.
2. A coordinated community effort will be required to effectively collect, remove, and dispose of debris following a disaster.
3. In order to combine local resources (personnel, equipment, supplies) various jurisdictions may joint together to establish a local area of operations for collecting and handling the debris.

4. Mutual aid from adjacent jurisdictions will be coordinated with pre-disaster planning.
5. Temporary debris storage and reduction sites will be located in each of the local jurisdictions area of operations in order to provide a close by site thus reducing transportation time and costs.
6. Pre-disaster planning will provide the jurisdictions knowledge of debris management and how to organize locally to conduct debris removal operations thus ensuring that cost effective and environmentally sound practices will be used.
7. During major emergencies requests for state and/or federal disaster assistance may be necessary.
8. Hurricane Laura of 2020 produced 1,343 cubic yards of C&D and 830,323 cubic yards of vegetative debris.
9. Sabine River Flood of 2016 produced 37,000 cubic yards of C&D and 1200 white good items.

ORGANIZATION AND PLANNING

Organization

1. Debris Management Team. Newton County will coordinate disaster-related debris management activities through the formation of a County Debris Management Team. This team will consist of agencies and organizations that have a concern or function in debris management and will serve to provide guidance and expertise in the planning and execution of debris management.
 - a. Team membership includes representation by the following: Newton County Judge, Newton County Commissioners, Newton County EMA, and officials of the affected jurisdictions.
 - b. Representatives with specific expertise and state or federal liaisons may be added as needed.
2. The Newton County Commissioners shall act as Co-Chairs of the Debris Management Team.
 - a. The Co-Chairs will be responsible for planning and logistics functions.
 - (1) Planning coordination with the team will include prioritization of needed activities and determination of appropriate strategies for collection and disposal.
 - (2) Logistics support will include debris quantity calculations, preparation and submission of requests for state assistance through Texas Department of Emergency Management(TDEM), assessments for requests for federal assistance, and provision of needed materials for the conduct of debris collection and disposal.
 - (3) Providing assistance to the local jurisdictions in the County in the preparation of local plans and procedures.
 - b. County Auditor shall serve as the County Debris Manager.

In this capacity she will have responsibility for assisting the County Commissioners with planning, operations and working to coordinate the financing of debris management activities.

- (1) Planning coordination will include contact with the designated Local Area Debris Managers and review of the proposed temporary debris sites.
- (2) Operations coordination will include contacts with each affected jurisdiction and scheduling and coordination of resources conducting debris operations.
- (3) Assisting with finance support will include contacts and negotiations with contractors, contract negotiations, support of and coordination with jurisdiction officials for expenses and scheduling, and documentation of all resources, personnel, materials, and costs for reimbursement purposes.

NOTE: The County Debris Manager will be assisted in the various day-by-day activities of debris management planning and coordination by the County EMA office.

3. Debris Management Workgroup. The Team approved the formation of a Debris Management Workgroup that consists of various agency and organization personnel that will assist the County EMA with the development of guidance for county and local DM Plans. This group will provide input to the county plan to include legal, environmental, organizational, response actions and other matters.

4. Jurisdictional Debris Management Teams. The Teams consist of local elected and other key personnel for local planning for response to a debris event. The Team will appoint a local Debris Manager to organize the jurisdictional response and coordinate with the county debris manager as necessary.

Planning.

1. County Debris Management Plan.

The County plan will be developed by the County Emergency Management Agency and be approved by the County Debris Management Team.

The Debris Management Workgroup will assist with the development of the plan and provide their expertise for the completion of various portions of the plan such as legal, environmental, resource information to include contractors, etc.

2. Local Jurisdictions Plans.

Cities within the County will be required to develop a local area debris management plan that will identify the local Debris Manager, other key personnel, temporary debris storage sites, and other information as the jurisdictions consider necessary.

Local plans will be brief. As a concept of operations the local plans will adopt the provisions of the county plan for operational guidance information and to utilize the various forms, worksheets, checklists, sample contracts and agreements, etc.

The local plans may include a single jurisdiction or be a joint plan involving two or more jurisdictions in the same general geographical area and coordinated by a single joint area debris manager.

Each jurisdiction (city) that is involved in a joint area plan must maintain its own financial accounting for the jurisdictions expenses (labor, equipment, supplies, etc) incurred during debris clearance operations..

The County EMA office will provide the jurisdictions a sample draft of the plan for their review and comment and upon receipt of the necessary information from the jurisdiction(s) will complete the local plan for them. This system will assist the jurisdictions and ensure continuity of planning and operations through-out the county.

3. Environmental Compliance.

Texas Commission on Environmental Quality (TCEQ) and local health department officials will be invited to participate with DM Workgroup and will be consulted for applicable regulatory requirements.

Following a disaster event, compliance with environmental protection laws and regulations is still a requirement. County and Local Debris Managers must be aware of these requirements and ensure compliance.

Health and Safety Considerations

Debris operations involve the use of heavy equipment to move and process various types of debris. Many of these actions can pose safety hazards to emergency response and recovery personnel as well as the public. In addition to those safety hazards, exposure to certain types of debris, such as building materials that contain asbestos and mixed debris that contains hazardous materials, can pose potential health risks to emergency workers.

All debris operations should be done in compliance with the health and safety requirements found in the Newton County Safety Program. The Safety Program enables Newton County and their contractors to avoid accidents during debris recovery operations and to protect workers from exposure to hazardous materials. The program provides emergency workers with information on how to identify hazardous conditions and specific guidelines on the appropriate and proper use of personal protective equipment (PPE).

4. References.

FEMA guidelines will be complied with in the disposal efforts. FEMA's Public Assistance and Policy Guide provides detailed information and is available from the FEMA website.

ASSIGNMENT OF RESPONSIBILITIES

Agencies with primary responsibility for debris management are tasked with attending workgroup meetings as often as necessary, participation in the planning process, and documentation of their actions.

1. Newton County Emergency Management Agency

- EMA Director will serve as a co-chair of the team
- Activate Debris Management Team, as necessary
- Update the team on disaster situation and known debris issues
- Prepare and submit debris calculations and requests for assistance from the State of Texas and FEMA.
- Provide information to the County PIO for publication and distribution
- Develop the County Plan and assist the Jurisdictions with the development of local plans.

2. Jasper/Newton Public Health District

- Assist in identification of health issues
- Inspect and coordinate appropriate actions by restaurants and grocery stores in addressing contaminated or spoiled food
- Provide monitors for temporary debris storage and reduction sites, as needed
- Provide information about health risks and safety procedures to the team and to the County PIO for publication and distribution

3. Newton County Sheriff

- Appoint a litter control officer to serve with the team and coordinate site security.
- Coordinate necessary security arrangements for the designated temporary debris sites

4. Waste Management Landfill, Inc.

- Relate available options for activities that may be supported by the landfill
- Provide monitoring for debris shipped to the landfill
- Coordinate necessary permits and requests with TCEQ

5. TCEQ/THC/EPA Representative

- Coordinate with state and federal agencies, such as EPA and Texas Historical Preservation Office to ensure compliance with environmental and historic preservation laws/regulations/policies

- Evaluate and assist in selecting locations for TDSR sites
- Determine appropriate environmental monitoring and ensure compliance with reporting requirements for TDSR sites
- Assist in securing necessary permits

6. Officials of Affected Jurisdictions

- Develop a local Debris Management Plan for their jurisdiction or participate in a joint plan for multiple jurisdictions in the area.
- Clear roadways and assess debris to be collected, as possible
- Coordinate local debris operations through the county strategy
- Distribute debris separation instructions and collection schedules to residents
- Maintain proper documentation of local expenses for purposes of reimbursement and historical records. Each jurisdiction must maintain separate records as they applied for disaster assistance by jurisdiction.
- Secondary responsibilities apply to the following agencies or individuals. They will possibly have limited involvement in the planning process, but fill a vital role in the overall picture of debris management operations.

7. Newton County Commissioners

- Authorize necessary expenditures for debris operations
- Coordinate with PIO to release information to the public

8. Newton County District Attorney

- Review insurance information and other assets to ensure benefits and resources are fully utilized
- Review contracts to ensure compliance with FEMA requirements
- Review rights-of-way and hold harmless agreements
- Ensure compliance with historical preservation issues

9. Public Information Officer

- Coordinate with county and local officials to release debris collection information
- Prepare sample public information announcements and media releases

10. Private Citizens

- Follow guidance provided for separation, drop-off, and/or collection of debris

- Assist neighbors, as able
- Report dangerous debris to local law enforcement

CONCEPT OF OPERATIONS

Disaster Response

In the event of a debris generating event the County EMA Director would normally activate the County Emergency Operations Center (EOC) and various members of the Debris Management Team may be requested to assist the EOC staff in the management of the debris situation.

Local jurisdictions will evaluate the amount of damage and debris within their jurisdictions and provide the County EMA information on amount of damages and debris removal actions planned. Requests for disaster assistance will be in accordance with Annex K, County Emergency Operations Plan.

Each jurisdiction must execute an emergency declaration for their jurisdiction. A copy of the declaration will be faxed to the County Judge's office (Fax Nr 409-379-2107)

The following items would need to be considered during the response and recovery phases of debris management.

Phased Approach

1. The County and Jurisdictional Debris Management Teams will address debris issues and response using a phased approach as noted below:

- Phase One – *Emergency debris clearance* to open access for emergency response vehicles and necessary traffic. This may be accomplished by jurisdiction officials due to the immediate nature of the situation.
- Phase Two – Debris issues affecting health and safety. These may include such issues as chemical, sewage, and flood contaminated debris, as well as dangerous limbs and trees, dead animals, and spoiled food.
- Phase Three – Other actions necessary to protect health and safety. These may include, but not be limited to, pest or rodent control activities associated with the presence of debris.

*NOTE: **It is important to note that the first three activities may or may not qualify for reimbursement under a state or federal declaration; however, they may be critical to preventing the spread of disease in the communities.*

- Phase Four – Complete all remaining debris activities necessary to restore the county to pre-disaster condition.

Evaluation of Need

1. When a debris generating event occurs - the EMA Director will brief the Team (normally by e mail) regarding the extent of the damage produced by the event and of actions planned or underway. Team members will provide any assistance or response necessary at the time.
2. An assessment of the debris situation county-wide will be made, to include estimates of damages by jurisdiction or joint jurisdiction, and the County EMA office, or County EOC staff, will provide assistance and coordination for the jurisdictions as necessary.
3. Debris cleanup activities will be prioritized based on the four phases of debris activities as listed under Phased Approach above.
4. Mutual aid assistance from unaffected jurisdictions and from other counties will be requested when-ever necessary.
 - a. Assistance may be available from surrounding county health departments or solid waste districts.
 - b. Written agreements should be signed to clarify the terms of the assistance.

Determination of Appropriate Strategy

1. The Debris Management Team approved the formation of a Debris Management Workgroup that consists of various agency and organization personnel that will meet as necessary to assist the County EMA with the development of the DM Plan. This group will provide input to the county plan to include legal, environmental, organizational, response actions and other matters as necessary.
2. Debris types may include:
 - Woody and tree material
 - Household goods, including furniture, personal belongings, and appliances
 - Food waste
 - Utility poles and wires
 - Hazardous materials and infectious waste
 - Vehicles and tires

- Building materials
- Animal carcasses
- Silt and mud

3. Means of collection may include:

- Use of authorized waste transfer or disposal facilities
- Establishment of alternate or Temporary Debris Storage and Reduction (TDSR) sites
- Direct pickup
- Placement of dumpsters

4. Means of Reduction

- Incineration
- Grinding and chipping
- Separation
- Recycling

5. Means of Disposal

- Landfill disposal
- Incineration
- Sale or donation of reduced material
- Decontamination and reuse

6. Demolition of a structure may be the only option in certain instances when severe damage has occurred. This will only be recommended after all other options have been explored:

- a. Responsibility for all costs and removal of debris from demolition is the responsibility of the property owner.

- b. When demolition is recommended, contracts and legal guidance will be necessary. See Appendix 5, Demolition Checklist.

Debris Removal Operations

1. Debris removal operations will be divided by public and private property.

a. *Public Rights-of-Way Debris Removal:* Debris deposited on public lands including the right-of-way will be the responsibility of local government.

- In some cases, where a health and/or safety threat exists, private property owners may move event-related debris to the public right-of-way for removal by government forces.
- Volunteers may assist private property owners if necessary to remove event-related debris that poses a health and/or safety threat.

b. *Private Property Debris Removal:* Debris deposited on private property is the responsibility of the property owner.

- In some cases, where a health and/or safety threat exists, private property owners may move event-related debris to the public right-of-way for removal by government forces.
 - ~ Debris removal schedules will be published through local media outlets and provided to officials in affected jurisdictions for release to private individuals.
 - ~ Instructions for separation of debris and steps to follow if assistance is required in getting debris to the curbside will be published with the removal schedules.
- Volunteers or voluntary groups may assist property owners.

Guidance for Debris Removal and Homeowner's Insurance Coverage Considerations.

Appendix 6 contains valuable information regarding the removal of eligible debris from private property; eligibility of curbside pick-up; and homeowner's insurance coverage for debris removal.

Debris Managers, other officials and operators should be familiar with the information provided in this appendix.

Temporary Debris Storage and Reduction Sites (TDSRS)

Newton County has a County Debris Management Plan and local area DM plans that normally will address two or more jurisdictions. The intent is to have at least one debris storage and reduction site in each geographical area addressed by these plans. (See Attachment 1, Page 40 for TDSRS)

Temporary debris storage and reduction sites may be on public or private land. Sites selected should be located close as possible to the geographical area addressed by the plan.

The County and the local Debris Managers will work together to coordinate the size and locations of the various sites, to develop appropriate site layout diagrams, determine site ingress/egress, determine site use and limitations, and other issues as required.

State and Federal guidelines for debris sites will be followed. TCEQ representative will be requested to review the sites and usage plans and provide comments as needed.

All sites will be entered into the County GIS mapping systems and information on all sites within the county will be provided all jurisdictions and concerned agencies and organizations.

Debris Site Security

Debris Site security is required to ensure the site is not used for illegal dumping.

Security of the active temporary debris sites within the county and local jurisdictions will be coordinated by the County Sheriff's Office and with local law enforcement departments.

Debris Site Managers will be responsible for overseeing the security of the jurisdictions site(s). All problems will be brought to the attention of the County EMA office (or County EOC).

Public Notification and Information

It is extremely important for the public to be notified of the procedures to be followed in handling the debris on their property and businesses as soon as the information is available. This information should include:

- Notice of how removal of debris from private property will be conducted and what is type of debris eligible to be picked up.
- Dates and time and locations schedules for debris pickup within the jurisdiction.
- Informational bulletins regarding the individual owners responsibilities, insurance coverage considerations, volunteers. etc.

Contract Monitoring

a. In the event that contracts are used for debris removal, monitoring of contractors is a very important issue. The team will designate a person or persons for contract monitoring.

b. Contract monitoring verifies that the following actions are taking place:

- Validate eligible debris being hauled by load ticket
- Quantify debris by CY
- Truck capacity certified
- Assist TCEQ and THC authorizations for TDMS
- Debris being picked up is a direct result of the disaster

- Trucks hauling debris are fully loaded.
- Debris pick-up areas are being managed properly
- Trucks are sticking to debris routes
- Inspection of temporary storage sites to ensure operations are being carried out according to contract
- Verification of security and control for temporary debris storage and reduction sites

Contracts and Contracting

Types of Contracts.

The following types of contracts may be used in conducting debris management operations.

Time and Material: Under a time and material contract, the contractor is paid on the basis of time spent and resources utilized in accomplishing debris management tasks. The Federal Emergency Management Agency policy requires that the use of time and material contracts be limited to the first 72 work hours following a disaster event. See Appendix 6, Sample Time and Materials Contract. (Pages 28-30)

Unit Price: A unit price contract is based on weight (tons) or volume (cubic yards) of debris hauled, and should be used when the scope of work is not well defined. It requires close monitoring of collection, transportation, and disposal to ensure that quantities are accurate. A unit price contract may be complicated by the need to segregate debris for disposal. See Appendix 8, Sample Unit Price Contract. (Pages 34-36)

Qualified Contractors.

Newton County has a predisaster contract with DRC Emergency Services, that addresses debris cleanup.

Right-of-Entry/Hold Harmless Agreements.

1. Disaster response activities may require entering private property to remove debris that is a threat to the health and safety of occupants.
2. Entry onto private property will be made only when absolutely necessary. Agreements will be necessary to protect private and public interests.
3. See Appendix 9, Sample Right-of-Entry/Hold Harmless Agreement. (Page 37)

Contract Monitoring.

In the event that contracts are used for debris removal, monitoring of contractors is a very important issue. Newton County maintains a Monitoring firm predisaster contractor.

Contract monitoring verifies that the following actions are taking place:

- Validate eligible debris being hauled by load ticket
- Quantify debris by CY
- Truck capacity certified
- Assist in TCEQ and THC authorizations for TDMS
- Debris being picked up is a direct result of the disaster
- Trucks hauling debris are fully loaded.
- Debris pick-up areas are being managed properly
- Trucks are sticking to debris routes
- Inspection of temporary debris storage sites to ensure operations are being carried out according to contract
- Verification of security and control for temporary debris storage and reduction sites

NOTE: The Newton County District Attorney will provide legal counsel and review of all proposed agreements.

Avoidance Checklist

Jurisdictional officials must be aware of the pitfalls of 'contracting' and ensure that all personnel involved in oversight of the debris management efforts are aware of the following:

- **DO NOT:** Award a debris removal contract on a sole-source basis.
- **DO NOT:** Sign a contract (including one provided by a contractor) until it has been thoroughly reviewed by your legal representative.
- **DO NOT:** Allow any contractor to make eligibility determinations, since only FEMA has that authority.
- **DO NOT:** Accept any contractor's claim that it is "FEMA certified." FEMA does not certify, credential, or recommend debris contractors.
- **DO NOT:** Award a contract to develop and manage debris processing sites unless you know it is necessary, and have contacted the state for technical assistance concerning the need for such operations. Temporary debris storage and reduction sites are not always necessary.
- **DO NOT:** Allow separate line item payment for stumps 24 inches and smaller in diameter; these should be treated as normal debris.
- **DO NOT:** "Piggyback" or utilize a contract awarded by another entity. Piggybacking may be legal under applicable state law; however, the use of such a contract may jeopardize FEMA funding.
- **DO NOT:** Award pre-disaster/stand-by contracts with mobilization costs or unit costs that are significantly higher than what they would be if the contract were awarded post-disaster. Such

contracts should have variable mobilization costs depending upon the size of the debris work that may be encountered.

Documentation

1. Documentation of debris management activities is **extremely important** for potential reimbursement of costs. It is important to record all debris activities performed, costs and authorizations granted. Copies need to be maintained for a historical record and for reference in updating plans.
2. Documentation of activities and costs associated with debris is the responsibility of those performing work at all levels of government (County, City) as well as those who provide oversight and direction.
3. **Each jurisdiction** must maintain complete and accurate records of the jurisdictions costs for debris removal in order to justify costs for reimbursement under the state and federal disaster assistance rules.
4. At a minimum, documentation needs to address the following:
 - Labor, equipment, rental fees and material costs
 - Mutual-aid agreement expenses
 - Use of volunteered resources, including labor
 - Administrative expenses
 - Disposal costs
 - Types of debris collected, amounts of each type, and location of origin and final disposition
5. Documentation must also meet State and/or FEMA standards in order for reimbursement of expenses to be approved. See Appendix 4, Debris Ticket Format for Landfill Disposal. (Page 25)

DIRECTION & CONTROL

Activation of the Plan

1. County and Local Plans will be activated as soon as it is apparent that there is a significant amount of debris that requires immediate action.
2. The Team will be notified of the situation by the EMA Director and certain members may be activated with the EOC staff.
3. The County Debris Manager will work with the EOC staff to coordinate activities with local jurisdictions, local Debris Managers and TCEQ representatives.

Establishment of Debris Removal Priorities

When a debris-generating event occurs there is an immediate need for prioritization of actions.

- The first priority shall include roadways that allow ingress and egress to the critical public facilities such as fire stations, police stations, hospitals, and other critical facilities.
- Other essential, but perhaps not critical facilities include schools, municipal buildings, water treatment plants, wastewater treatment plants, power generation units, airports, temporary shelters for disaster victims, etc.
- The county will need to prioritize debris removal from roadways that allow ingress or egress to these facilities.

Environmental Compliance

1. Compliance with environmental protection laws and regulations and endangered species is still required after disasters.
2. Federal and State Environmental Protection Agencies and local Health Departments should be consulted for applicable regulatory requirements and consequences of not following environmental regulations, laws and policies.
3. Hazardous waste will be a significant issue in the debris management strategy.
 - The county or city will work closely with Federal and State environmental protection agencies to ensure proper removal and disposal of hazardous waste.
 - Procedures for establishing a separate staging area for hazardous waste, to include lining with an impermeable material so chemicals do not leak into the groundwater and soil will need to be developed.

ADMINISTRATION & LOGISTICS

Temporary Debris Storage and Reduction (TDSR) Sites

- a. Some specific considerations when using these types of sites include:
 - Location: Care should be taken in selection of TDSR sites. Land use, proximity to housing, location of the nearest water table and/or public water supply, and other factors that may impact the use of the site should be taken into account.
 - Operations: Monitoring receipt of debris and verifying types of debris received are critical functions for successful operation of a TDSR site. Included in the attachments to this document is a sample TDSR site layout.

- Closeout: In order to close out a TDSR site, care should be taken to restore the site to its original condition in an environmentally friendly and timely manner. Included in the attachments to this document is a checklist for site closeout.
- b. See Appendix 10, TDSR Checklist, Issues, and Layout, for more information.(Pages 38-39)

Tracking of Resources

- a. Tracking of resources is essential in order to obtain the most possible utilization from those available in the County.
- b. The level of detail in the tracking system will be dependent upon the size magnitude of the disaster. County EMA (and the EOC) will assist the local jurisdictions as needed.

Meetings and Briefings

- a. Meetings and briefings will be conducted by or through the County EOC. The main purpose of the meetings is to brief EOC staff and media on current and future debris management activities.
- b. Debris management staff personnel will attempt to participate in all EOC meetings provide briefings as necessary and provide the latest information available to the EOC staff.

Documentation Process

- a. Debris management personnel will maintain records regarding planning and decisions made on debris management activities.
- b. This include minute of meetings, debris site selections, debris removal policies and priorities, demolition of public/private structures and others.

State Agency Support

Following is a list of state agencies that may participate in, or support, debris removal activities:

- Texas Department of Transportation
- Texas Commission on Environmental Quality – Solid Waste & Orphan Drum Programs
- Texas Department of Health – Emergency Response Section
- Texas Department of Emergency Management
- Texas Department of Natural Resources

- Texas Department of Agriculture – Animal or Food Safety Offices
- Texas National Guard
- Texas Department of Criminal Justice
- Texas Department of Public Safety

Direct Federal Assistance

Direct federal assistance may be available during certain incidents; however, this applies only to emergency work (debris removal and emergency protective measures) and must meet general FEMA eligibility criteria.

Debris activities that are eligible for Direct Federal Assistance include:

- Debris removal from critical roadways and facilities
- Debris removal from curbsides or from eligible facilities and hauling to either temporary or permanent sites
- Identification, design, operation, and closeout of debris management sites
- Monitoring debris contractor's activities
- Demolition or removal of disaster damaged structures and facilities in accordance with FEMA regulations and policies

Technical Assistance

State Technical Assistance is available to local officials for a variety of tasks related to debris planning. The Texas Commission on Environmental Quality, and Texas Division of Emergency Management, can provide technical assistance in the following areas. TDEM will provide monitoring training of staff as well as FEMA. TDEM also offers technical guidance on all debris issues and processes.

- County and Local Debris Management Plans
- Debris Management Site plans
- Contract/TDSR checklist.
- Documentation aids (ex. Trip tickets)

Federal Technical Assistance

Federal technical assistance may be available, and applies when a state or county lacks technical knowledge or expertise to accomplish an eligible task. The Federal Emergency Management Agency will then request technical assistance from the appropriate federal agency in the National Response Plan.

Eligible technical assistance includes:

- Assistance in developing an overall debris management plan
- Assistance in developing Debris Management Site plans
- Assistance in developing of monitoring plans
- Assistance in developing contract guidelines
- Assistance in developing and implementing trip tickets processes

Agencies that may be assigned missions from the Federal Government

- Federal Highway Administration
- United States Department of Agriculture
- Environmental Protection Agency
- United States Army Corps of Engineers
- United States Coast Guard
- Bureau of Indian Affairs

Volunteer Organizations

Volunteer organizations may provide assistance for debris removal from private property. There is a wide range of volunteer organizations at the local, state, and federal levels. The following is an incomplete list of organizations:

- American Red Cross
- Citizen Corps
 - ~ Community Emergency Response Teams
- Catholic Social Services
- Salvation Army
- Voluntary Organizations Active in Disaster (VOAD)
- Civic Clubs
- Student Organizations
- Church Organizations

PLAN DEVELOPMENT & MAINTENANCE

1. The Newton County EMA Director and the Solid Waste Coordinator (in cooperation with the organizations listed in this Plan) are responsible for updating this Plan based on deficiencies identified through actual events, drills and exercises, and changes in government structure and emergency organizations.
2. The Newton County EMA Director will prepare, coordinate, publish and distribute necessary changes and revisions to this Plan.

AUTHORITIES AND REFERENCES

Authorities:

- 2 CFR part 200
- 44 CFR (Code of Federal Regulations) Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
- 44 CFR Part 206, Disaster Assistance (subparts G-L pertain to the Public Assistance Program)

Reference

- Debris Monitoring Guide-FEMA
- Catastrophic Debris Management Guide-TDEM
- Public Assistance Program and Policy Guide, June 2020
- FEMA Debris Management Course (G202)

ADDENDA

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Appendix 2 - Right of Entry Agreement and PPDR	(Page 23)
Appendix 3 - TDSR Checklist, Closeout and Layout	(Page 24)
Appendix 4 - Newton County TDSR Sites	(Page 28)
Appendix 5- Newton County Procurement Policy	(Page 31)

AUTHENTICATION



Newton County Judge

September 14, 2022
(Date)



Newton County Emergency Management

9-15-22 (Date)

Appendix 1

TEMPORARY DEBRIS SITE INFORMATION

SITE EVALUATION

Site Ownership:

Use public lands to avoid costly leases and trespassing allegations. Use private land only if public sites are unavailable.

Site Location:

Consider impact of noise, dust and traffic;

Consider pre-existing site conditions;

Look for good ingress/egress at site(s);

Consider impact on ground water;

Consider site size based on:

Expected volume of debris to be collected;

Planned volume reduction methods;

Avoid environmentally sensitive areas, such as:

Wetlands;

Rare and critical animals or plant species;

Well fields and surface water supplies;

Historical/archaeological sites;

Sites near residential areas, schools, churches, hospitals and other sensitive areas

Perform recordation of site chosen (pictures, videos).

Site Operations:

Use portable containers;

Separate types of waste as operations continue;

Monitor site at all times;

Perform on-going volume reduction (on site or removal for disposal/reduction);

Provide nuisance management (dust, noise, etc.);

Provide vector controls (rats, insects, etc);

Provide special handling for hazardous materials;

Provide security (limit access);

Ensure appropriate equipment is available for site operations.

Site Closeout:

Remove all remaining debris to authorized locations;

Restore site to pre-use condition;

Perform recordation of site (pictures, videos).

Notify TCEQ to close out TDMS site

RIGHT OF ENTRY AGREEMENT

I/We _____, the owner(s) of the property commonly
Identified as _____,
(Street) (City/town)

_____, State of Texas, Newton, County
do hereby grant and give freely and without coercion, the right of access and entry to said property in the County/City of
_____, its agencies, contractors, and subcontractors thereof, for the purpose of
removing and clearing any or all storm-generated debris of whatever nature from the above described property.

It is fully understood that this permit is not an obligation to perform debris clearance. The undersigned agrees and warrants to hold-harmless the City/County of _____, State of Texas, its agencies, contractors, and subcontractors, for damage of any type, whatsoever, either to the above described property or persons situated thereon and hereby release, discharge, and waive any action, either legal or equitable that might arise out of any activities on the above described property. The property owner(s) will mark any storm damaged sewer lines, water lines, and other utility lines located on the described. If resident receives any Duplication of Benefits, they will reimburse back to FEMA through TDEM.

I/We (have _____, have not _____) (will _____, will not _____) receive any compensation for debris removal from any other sources including Small Business Administration, National Resource Conservation Service, private insurance, individual and family grant program or any other public assistance program. I will report for this property any insurance settlements to me or my family for debris removal that has been performed at government expense. For the considerations and purposes set forth herein, I set my hand this _____ day of _____, 20____.

Witness

Owner

Owner Telephone Number and Address

LOCAL RESPONSIBILITIES CHECKLIST

THE FOLLOWING CHECKLIST IDENTIFIES KEY TASKS THAT LOCAL OFFICIALS SHOULD ADDRESS BEFORE A STRUCTURE IS APPROVED FOR DEMOLITION. TO EXPEDITE THE OVERALL EFFORT, MANY OF THE TASKS CAN BE CONDUCTED CONCURRENTLY.

____ PROVIDE COPIES OF ALL ORDINANCES THAT AUTHORIZE THE LOCAL OFFICIALS TO CONDEMN PRIVATELY OWNED STRUCTURES. THE AUTHORITY TO CONDEMN PRIVATELY OWNED STRUCTURES WOULD PROBABLY HAVE TO BE ACCOMPLISHED BY AN ORDINANCE OTHER THAN ONE DESIGNED OR ENACTED FOR THE DEMOLITION OF PUBLICLY OWNED STRUCTURES.

____ THE LOCAL OFFICIALS SHOULD COORDINATE ALL LANDS, EASEMENTS, AND RIGHTS OF WAY NECESSARY FOR ACCOMPLISHING THE APPROVED WORK.

____ IMPLEMENT LAWS THAT REDUCE THE TIME IT TAKES TO GO FROM CONDEMNATION TO DEMOLITION.

____ PROVIDE COPIES OF ALL APPLICABLE PERMITS REQUIRED FOR DEMOLITION OF SUBJECT STRUCTURE(S).

____ PROVIDE COPIES OF PERTINENT TEMPORARY WELL CAPPING STANDARDS.

____ COORDINATE ALL PERTINENT SITE INSPECTIONS WITH LOCAL, STATE, AND FEDERAL INSPECTION TEAM(S).

____ IDENTIFY HOUSEHOLD HAZARDOUS WASTE MATERIALS PRIOR TO DEMOLITION.

____ NOTIFY THE OWNER/AND OR RENTER OF ANY AND ALL SITE INSPECTIONS.

____ VERIFY THAT ALL PERSONAL PROPERTY HAS BEEN REMOVED FROM PUBLIC AND/OR STRUCTURE(S).

____ IMMEDIATELY PRIOR TO DEMOLITION, VERIFY THAT THE BUILDING IS UNOCCUPIED.

____ ENSURE THAT THE PROPERTY IS PROPERLY POSTED.

____ PROVIDE A CLEAR, CONCISE AND ACCURATE PROPERTY DESCRIPTION AND DEMOLITION VERIFICATION.

____ INCLUDE A PUBLIC HEALTH OFFICIAL ON THE DEMOLITION INSPECTION TEAM.

____ THE INSPECTION NOT ONLY SHOULD EVALUATE THE STRUCTURAL INTEGRITY OF THE BUILDING, BUT ALSO MUST DEMONSTRATE "IMMINENT AND IMPENDING PERIL" TO PUBLIC HEALTH AND SAFETY.

____ SEGREGATE ALL HOUSEHOLD HAZARDOUS WASTE MATERIALS TO A PERMITTED FACILITY PRIOR TO BUILDING DEMOLITION.

____ PROVIDE PHOTOGRAPHS OF THE PROPERTY AND VERIFY THE ADDRESS. PROVIDE ADDITIONAL PHOTOGRAPHS OF THE PROPERTY TAKE IMMEDIATELY PRIOR TO AND FOLLOWING DEMOLITION.

TDSR Checklist, Issues, and Layout

Temporary Debris Storage and Reduction (TDSR) Site Closeout Checklist

The following is a recommended TDSR site closeout checklist.

_____ Site Number and Location

_____ Date closure complete

_____ Household Hazardous Waste removed

_____ Contractor equipment removed

_____ Contractor petroleum and other toxic spills cleaned up

_____ Ash piles removed

_____ Compare baseline information of the temporary site conditions after the contractor vacates the site.

TDSR Closeout Issues

Environmental Restoration Stockpiled debris will be a mix of woody vegetation, construction material, household items, and yard waste. Household hazardous waste and medical wastes should be segregated and removed prior to being stockpiled. Activities done at the temporary debris storage and reduction site will include stockpiling, sorting, recycling, incineration, grinding, and chipping. Incineration operations will occur in air curtain pits and only woody debris will be incinerated. Due to operations occurring contamination from petroleum spills or runoff from incineration and debris piles may occur. Therefore close monitoring of the environmental conditions is a coordinated effort.

Site Remediation During the debris removal process and after the material is removed from the debris site; environmental monitoring will need to be conducted. This is to ensure no long-term environmental effects occur. Environmental monitoring is needed for the following areas:

Ash- Monitoring consists of chemical testing to determine suitability of material for landfill placement.

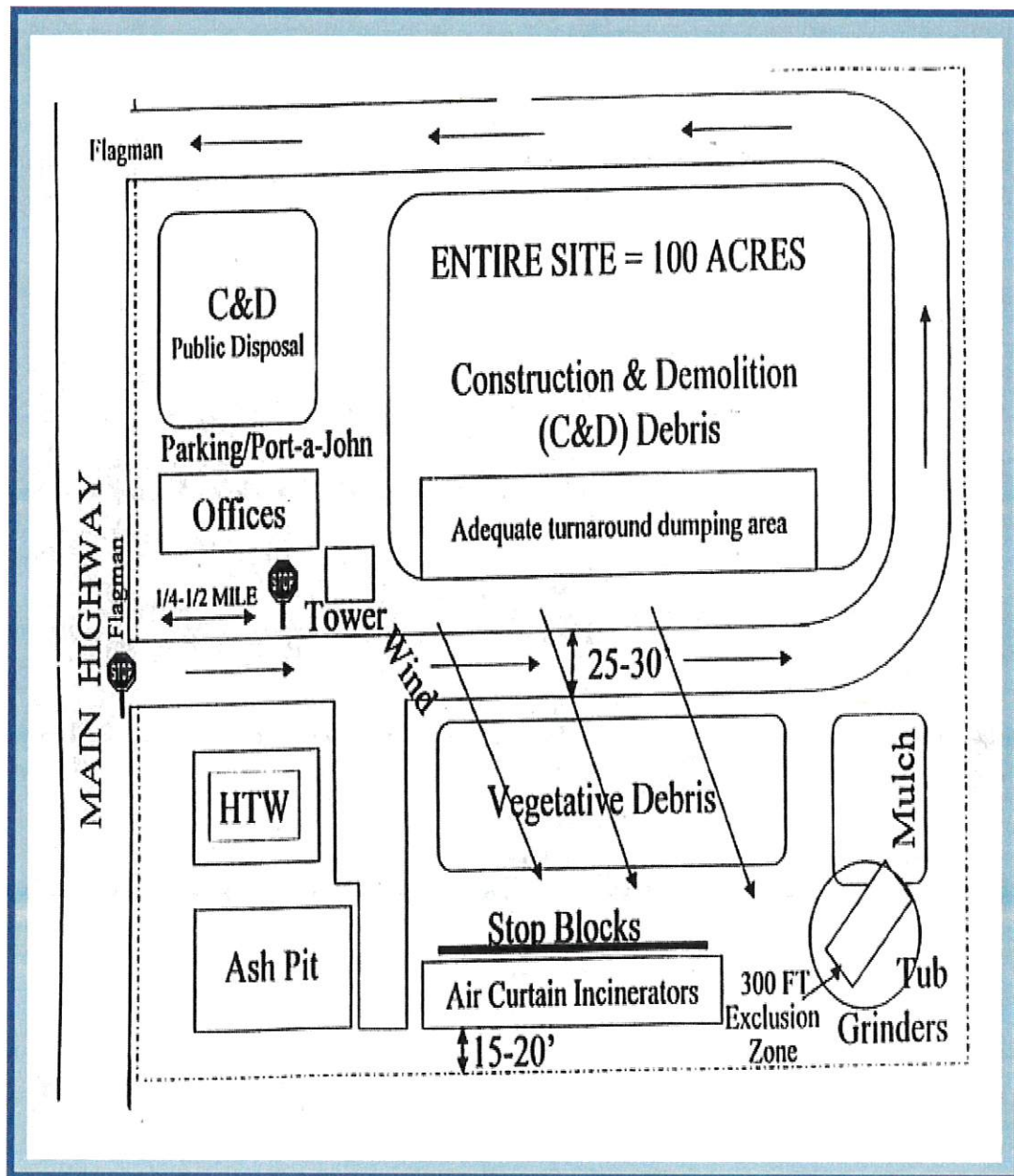
Soils- Monitoring consists of using portable meters to determine if soils are contaminated by volatile hydrocarbons. Contractors do monitoring if there has been a determination that chemicals such as oil or diesel has spilled on site.

Groundwater- Monitoring is done on selected sites to determine effects of rainfall leaching (leaking) through ash areas or stockpile areas.

Develop a checklist for site close out procedures. A sample checklist is included in this document.

Sample TDSR Layout

The following is a sample layout for a Temporary Debris Storage & Reduction Site.



ATTACHMENT

SITE #	NAME OF SITE	LOCATION	JURISDICTION	APPROX SIZE
1	Leesmill Road	CR 2019	Forest Resource Consultants Precinct 3	10 acres
2	Walker 893	CR 3035	Forest Resource Counsultants Precinct 2	8 acres
3	ATV Park	Hwy 63 East	Sabine ATV Park Precinct 3	10 acres
4	Byron Watson	CR 4650	Byron Watson Precinct 1	10 acres
5				
6				
7				
8				
9				
10				

PROCUREMENT POLICY FOR EXPENDITURE OF FEDERAL FUNDS NEWTON COUNTY, TEXAS

Revised and adopted June 13, 2022

PURPOSE

The purpose of this Policy is to establish guidelines that meet or exceed the procurement requirements for purchases of goods, services, and construction or repair projects when federal funds are being used in whole or in part to pay for the cost of the contract.

FINANCIAL MANAGEMENT

[§200.302]

The financial management of the County must provide for the following [§200.302(b)]:

1. Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received. Federal program and Federal award identification must include, as applicable, the Assistance Listings title and number, Federal award identification number and year, name of the Federal agency, and the name of the pass-through entity, if any.
2. Accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements set forth in §200.328 and 200.329. If a Federal awarding agency requires reporting on an accrual basis from a recipient that maintains its records on other than an accrual basis, the recipient must not be required to establish an accrual accounting system. This recipient may develop accrual data for its reports on the basis of an analysis of the documentation on hand. Similarly, a pass-through entity must not require a subrecipient to establish an accrual system and must allow the subrecipient to develop accrual data for its reports on the basis of an analysis of the documentation on hand.
3. Records that identify adequately the source and application of funds for federally-funded activities. These records must contain information pertaining to Federal awards, authorizations, financial obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.
4. Effective control over, and accountability for, all funds, property and other assets. The non-Federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes.
5. Comparison of expenditures with budget amounts for each Federal award.
6. Written procedures to implement the requirements of §200.305.
7. Written procedures for determining the allowability of costs in accordance with subpart E of this part and the terms and conditions of the Federal award.

Determining Allowability of Costs

Grantees are required to have written procedures for determining the allowability of costs charged to Federal grants. 2 CFR § 200.302(b)(7). All costs must be allowable under the federal cost principles in 2 CFR Part 200, Subpart E, and under the terms and conditions of the specific Federal award.

1

Expenditures must be aligned with budgeted items in the approved grant application. Certain changes or variations from the approved budget and grant application need prior approval from the awarding agency.

When determining how the County will spend grant funds, the specific grant administrators will review the proposed cost to determine whether it is an allowable use of Federal grant funds before obligating and spending those funds on the proposed goods or services. All expenditures made with Federal funds must meet the standards outlined in 2 CFR Part 200. The following factors must be considered when making an allowability determination.

Factors Affecting Allowability of Costs

In general, the County must consider the following elements when determining the allowability of a cost.

In accordance with the Federal cost principles, all costs budgeted and charged to a federal grant must be:

Necessary and Reasonable for the performance of the federal award.

Reasonable Costs: A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision to incur the cost was made. "Reasonable" means that sound business practices were followed, and purchases were comparable to current market prices.

A cost can be reasonable if it meets all of the following conditions:

- Prudence was used in making the decision to incur the cost, considering the person's responsibilities to the County, its employees, the public, and the Federal government.
- It is necessary to carry out the objectives of the grant program or is recognized as an ordinary cost to operate the organization.
- The County applied sound business practices; arm's-length bargaining (i.e., the transaction was with an unrelated third party); Federal, state, and other laws and regulations; and the terms and conditions of the award in making the decision.
- The price is comparable to that of the current fair market value for equivalent goods or services.
- There were no significant deviations from the established practices of the organization which may unjustifiably increase the cost. 2 CFR § 200.404

Necessary Costs: While 2 CFR § 200.404 does not provide specific descriptions of what satisfies the "necessary" element beyond its inclusion in the reasonableness analysis above, necessary is determined based on the needs of the program. Specifically, the expenditure must be necessary to achieve an important program objective. It means it is vital or required in order to meet the objectives of the grant or for the grant to be successful. Necessary does not mean "nice to have," which means it is not necessary to accomplish the objectives of the program in that it is not vital or required for the success of the program.

A key aspect in determining whether a cost is necessary is whether the County can demonstrate that the cost addresses an existing need and can prove it.

When determining whether a cost is necessary, the County considers:

- Whether the cost is needed for the proper and efficient performance of the grant program;
- Whether the cost is identified in the approved budget or application;
- Whether there is a County benefit associated with the cost;

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- Whether the cost aligns with identified needs based on results and findings from a needs assessment; and
- Whether the cost addresses program goals and objectives and is based on program data.

Allocable to the federal award. A cost is allocable to the Federal award if the goods or services involved are chargeable or assignable to the Federal award in accordance with the relative benefits received. This means that the Federal grant program derived a benefit in proportion to the funds charged to the program. 2 CFR § 200.405. The County must be able to demonstrate how a particular cost benefits the specific population being served in the grant.

Consistent with policies and procedures that apply uniformly to both Federally-financed and other activities of the County.

Conform to any limitations or exclusions set forth as cost principles in 2 CFR Part 200, Subpart E, or in the terms and conditions of the federal award.

Consistent treatment. A cost cannot be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been assigned as an indirect cost under another award.

Adequately documented. All expenditures must be properly documented with original source documentation that is clearly written and maintained on file (either electronically or on paper) with accounting records. Documentation includes purchase orders/requisitions, invoices, receipts, verification of receipt of goods and services, travel authorizations and vouchers, contracts, time- and-effort records, copies of checks, bank statements, etc. Expenditures that are not supported by source documentation cannot be charged to the grant.

2

Determined in accordance with generally accepted accounting principles (GAAP), unless provided otherwise in 2 CFR Part 200.

Not included as a match or cost-share of another federal program, unless the specific Federal program authorizes Federal costs to be treated as such. Some Federal program statutes require the grantee to contribute a certain amount of non-federal resources to be eligible for the Federal program.

Incurred during the approved budget period.

The net of all applicable credits. The term "applicable credits" refers to those receipts or reduction of expenditures that operate to offset or reduce expense items allocable to the Federal award. Typical examples of such transactions are: purchase discounts; rebates or allowances; recoveries or indemnities on losses; and adjustments of overpayments or erroneous charges, such as credits. To the extent that such credits accruing to or received by the County relate to the Federal award, they shall be credited to the Federal award, either as a cost reduction or a cash refund, as appropriate. 2 CFR § 200.406.

2 CFR Part 200's cost guidelines must be considered when Federal grant funds are expended. Federal rules require state- and County-level requirements and policies regarding expenditures to be followed as well. For example, state and/or County policies relating to travel or equipment may be narrower or more restrictive than the Federal rules. In this case, the stricter State and/or County policies must be followed.

3

Requesting Prior Written Approval

For certain costs that it may be difficult to determine reasonableness or allocability, the County may seek prior written approval for "special or unusual costs" not identified in the regulations in advance of the incurrence of such costs. This may prevent future disallowance or dispute based on "unreasonableness" or "non-allocability." Prior written approval should include the timeframe or scope of the agreement. 2 CFR § 200.407

The specific grant administrators will determine if and when the County should seek prior written approval for a certain cost prior to incurring the cost. Federal grant funds will not be expended for any costs that require prior written approval in accordance with 2 CFR 200, Subpart E, or the grant application instructions, if such prior written approval was not properly secured.

Selected Items of Cost - 2 CFR Part 200, Subpart E

3

2 CFR Part 200, Subpart E, examines the allowability of some specific cost items (commonly referred to as Selected Items of Cost) at 2 CFR §§ 200.420 - .476. These cost items are listed in the chart below along with the citation where it is discussed. Please do not assume that an item is allowable because it is specifically listed, as it may be unallowable despite its inclusion in the selected items of cost section, or it may be allowable only under certain conditions, including prior written approval.

The expenditure may be unallowable for a number of reasons, including: the express language of the regulation states the item is unallowable; the terms and conditions of the grant deem the item unallowable; or State/local restrictions dictate that the item is unallowable or allowable only under certain conditions or circumstances. The item may also be unallowable because it does not meet one of the factors affecting allowability of costs, such as being reasonable because it is considered too expensive. If an item is unallowable for any of these reasons, the County does not use Federal funds to purchase it.

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The selected items of cost addressed in 2 CFR Part 200, Subpart E include the following (in alphabetical order):

Item of Cost	Citation of Allowability Rule
Advertising and public relations costs	2 CFR § 200.421

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Advisory councils 2 CFR § 200.422
Alcoholic beverages 2 CFR § 200.423
Audit services 2 CFR § 200.425
Bad debts 2 CFR § 200.426
Bonding costs 2 CFR § 200.427
Collection of improper payments 2 CFR § 200.428
Compensation - personal services 2 CFR § 200.430
Compensation - fringe benefits 2 CFR § 200.431
Conferences 2 CFR § 200.432
Contingency provisions 2 CFR § 200.433
Contributions and donations 2 CFR § 200.434
Defense and prosecution of criminal and civil proceedings, claims, appeals and patent
infringements 2 CFR § 200.435
Depreciation 2 CFR § 200.436
Employee health and welfare costs 2 CFR § 200.437
Entertainment costs 2 CFR § 200.438
Equipment and other capital expenditures 2 CFR § 200.439
Exchange rates 2 CFR § 200.440
Fines, penalties, damages and other settlements 2 CFR § 200.441
Fund raising and investment management costs 2 CFR § 200.442
Gains and losses on disposition of depreciable assets 2 CFR § 200.443
General costs of government 2 CFR § 200.444
Goods and services for personal use 2 CFR § 200.445
Idle facilities and idle capacity 2 CFR § 200.446
Insurance and indemnification 2 CFR § 200.447
Intellectual property 2 CFR § 200.448
Interest 2 CFR § 200.449
Lobbying 12 CFR § 200.450
Losses on other awards or contracts 2 CFR § 200.451
Maintenance and repair costs 2 CFR § 200.452
Materials and supplies costs, including costs of computing devices 2 CFR § 200.453

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Memberships, subscriptions, and professional activity costs 2 CFR § 200.454
Organization costs 2 CFR § 200.455
Participant support costs 2 CFR § 200.456
Plant and security costs 2 CFR § 200.457
Pre-award costs 2 CFR § 200.458
Professional services costs 2 CFR § 200.459

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Proposal costs 2 CFR § 200.460
 Publication and printing costs 2 CFR § 200.461
 Rearrangement and reconversion costs 2 CFR § 200.462
 Recruiting costs 2 CFR § 200.463
 Relocation costs of employees 2 CFR § 200.464
 Rental costs of real property and equipment 2 CFR § 200.465
 Selling and marketing costs 2 CFR § 200.467
 Specialized service facilities 2 CFR § 200.468
 Student activity costs 2 CFR § 200.469
 Taxes (including Value Added Tax) 2 CFR § 200.470
 Telecommunications and video surveillance costs 2 CFR § 200.471
 Termination costs 2 CFR § 200.472
 Training and education costs 2 CFR § 200.473
 Transportation costs 2 CFR § 200.474
 Travel costs 2 CFR § 200.475
 Trustees 2 CFR § 200.476

Likewise, it is possible for the State and/or County to put additional requirements on a specific item of cost. Under such circumstances, the stricter requirements must be met for a cost to be allowable. Accordingly, employees consult federal, State and County requirements when spending Federal funds.

Other Considerations for Allowability

In order for a cost to be allowable, the expenditure must also be allowable under the applicable federal program statute.

Most Federal programs also contain the supplement, not supplant requirements. In general, this means that the County cannot use federal grant funds to pay for a cost or activity that is usually supported by state or local funds.

In summary, for a cost to be allowable under a Federal grant program, the County ensures it meets all of the following conditions. A cost that does not meet all of these conditions could be questioned during an audit or monitoring visit and could require repayment to the awarding agency. The cost must be:

- reasonable in cost (as described above)
- necessary to accomplish the objectives of the grant program (as described above)
- based on an identified need, concern, or area of weakness within the grant program
- appropriate under the authorizing program statute
- consistent with the underlying needs of the program in that it benefits the intended population for which the funds are appropriated
- allocable to the grant based on the relative benefits received (as described above)
- authorized or not prohibited under state or local laws or regulations

- consistent with policies, regulations, and procedures that apply to all activities, including other grants and state and local activities
- treated consistently as either a direct cost or as an indirect cost
- determined in accordance with GAAP
- not used to meet cost sharing or matching requirements of another federal grant (unless specifically permitted in the other program statute or regulations)
- consistent with the terms and conditions of the grant award
- budgeted in the approved grant application
- adequately documented with appropriate supporting original source documentation
- the net of any applicable credits such as rebates or discounts
- allowable under the federal cost principles
- in most cases, supplemental to the activities normally conducted by the county (i.e., supplement, not supplant)

County personnel responsible for spending Federal grant funds and for determining allowability must be familiar with the Part 200 selected items of cost section. County employees are required to follow these rules when charging these specific expenditures to a Federal grant.

Newton County will monitor and ensure timely and quarterly submissions of reimbursement requests to granting agencies.

Invoices

The invoice is an itemized statement of merchandise or a service, shipped or delivered to an end user and is a guide for the County in settling financial obligation incurred. The invoice must be reviewed for correctness, and any differences should be resolved with the vendor immediately and always before forwarding for payment.

All invoices must be attached to a completed requisition for payment and delivered to the Auditor's Office. All invoices should contain the following information:

The invoice number.

The invoice date.

A list of merchandise received or services performed.

The prices, terms, quantities, and other pertinent information.

The County must ensure the submission of invoices follow funding agency policies for cost principles and timely and quarterly RFP submissions in order to minimize time lapses between receiving invoices and requesting reimbursement from the applicable funding agency.

GENERAL PROCUREMENT STANDARDS

[§ 200.318]

A. Responsibility and Oversight[§ 200.318(b)]J. Newton County staff is responsible for developing all contracts in accordance with the policy, applicable state statutes, and in conformance with applicable Federal Law and Uniform Guidance Standards, to ensure a full

awareness and understanding by affected employees.

Newton County shall maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders

B. Conflicts of Interest [§ 200.318(c)(1)]. No employee, officer, or agent of Newton County shall participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization that employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of Newton County shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts, unless the financial interest is not substantial or the gift is an unsolicited item of nominal value. Disciplinary actions shall be applied for violations of such standards by officers, employees, or agents of Newton County.

C. Procurement Under Federal Awards [§ 200.318(d) through (k)]. Procurement of goods and services whose costs are charged to federal awards received by Newton County shall be subject to the following policies:

1. Newton County shall avoid acquisition of unnecessary or duplicative items. When feasible, consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. [§ 200.318(d)J.

2. Where appropriate, Newton County will make an analysis of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. [§ 200.318(d)J.

3. Newton County may consider entering into state and local intergovernmental agreements where appropriate for procurement or use of common or shared goods and services. [§ 200.318(e)].

4. Newton County may use federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs. [§ 200.318(f)].

5. Newton County may use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reduction. [§ 200.318(g)J.

6. Newton County shall award contracts 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. [§ 200.318(h)].

7. Newton County shall maintain records sufficient to detail the history of 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. [§ 200.318(i)].

8. Newton County may use time and material type of contracts only after the department director determines that no other contract is suitable. Time and material contracts shall have a "not to exceed price" where the contractor exceeds at its own risk. Further, the department director shall assert a high degree of oversight to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls. [§ 200.318(j)(1) and (2)].

9. Newton County shall 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. [§ 200.318(k)].

COMPETITION [§ 200.319]

A. Full and Open Competition [§ 200.319(a) and (b)]. Newton County shall conduct all procurement transactions in a manner providing full and open competition and which is consistent with the standards of 2

C.F.R. § 200.319 and 320. 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 procurements; and
7. Any arbitrary action in the procurement process.

B. Contractor's Conflict of Interest [§ 200.319(b)]. Contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals shall be excluded from competing for such procurements.

C. Geographic Preference [§ 200.319(c)]. When federal funds are involved, Newton County prohibits the use of statutorily or administratively imposed 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. Notwithstanding the foregoing, when contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

D. Procurement Standards[§ 200.319(d)]J. As applicable, all solicitation for projects using federal funds shall:

1. 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 that 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 equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand that must be met by offers must be clearly stated; and

2. Identify all requirements that offerors must fulfill and all other factors to be used in evaluating bids or proposals.

E. Prequalification Lists[§ 200.3 J 9(e)]J. All prequalified lists of persons, firms, or products used in acquiring goods and services shall be current and include enough qualified sources to ensure maximum open and free competition. Newton County shall not preclude potential bidders from qualifying during the solicitation period.

F. Noncompetitive Procurements[§ 200.319(l)]J. Newton County shall only award noncompetitive procurements in accordance with 2 C.F.R. § 200.320 and the "Methods of Procurement" section of this policy.

METHODS OF PROCUREMENT [§ 200.320]

Newton County shall use one of the following methods of procurement for the acquisition of property or services required under a federal award or sub-award.

A. Informal Procurement Methods[§ 200.320(a)]J.

1. Micro-purchases [§ 200.320(a)(1)]J. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$10,000 or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act. Procurement by micro-purchase shall meet the following guidelines:

i. Distribution [§ 200.320(a)(J)(i)]. To the extent practicable, Newton County will distribute micro-purchases equitably among qualified suppliers.

ii. Micro-purchase Awards [§ 200.320(a)(I)(ii)]. Micro-purchases may be awarded without soliciting competitive quotations if Newton County considers the price to be reasonable based on research, experience, purchase history, or other applicable information.

3. Small Purchases[§ 200.320(a)(2)]. Procurement by small purchase is the acquisition of supplies or services where the aggregate dollar amount is more than the micro- purchase threshold (i.e. \$10,000) but does not exceed \$250,000 or \$750,000 in the case of acquisitions used to facilitate defense against or recovery from cyber-attack. Procurement by small purchase shall meet the following guideline:

i. When using the small purchase method of procurement, Newton County shall obtain price or rate quotations from an adequate number of qualified sources[§ 200.320(a)(2)(i)J].

B. Formal Procurement Methods[§ 200.320(b)]. When the value of the procurement for property or services under a federal financial assistance award exceeds the small purchase threshold, Newton County shall use one of the formal procurement methods below.

1. Sealed Bids[§ 200.320(b)(I)]. The sealed bid procurement method is one in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the lowest responsible bidder whose bid conforms with all the material terms and conditions of the invitation for bids. Generally, the sealed bid method is the preferred method for procuring construction.

i. For sealed bidding to be feasible, the following conditions should be present [§ 200.320(b)(I)(i)]:

(a) A complete, adequate, and realistic specification or purchase description.

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

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

ii. If sealed bids are used, the following requirements shall apply[§ 200.320(b)(I)(ii)]:

(a) Bids shall be solicited from an adequate number of qualified sources, providing sufficient response time before the date set for opening the bids;

(b) The invitation for bids shall be publicly advertised;

(c) The invitation for bids, which shall include any specifications and pertinent

attachments, shall define the items or services for the bidder to properly respond;

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

(e) A firm fixed price contract award shall 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 shall only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

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

(2) Proposals[§ 200.320(b)(2)}. The proposal procurement method is one in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. If sealed bids are used, the following requirements shall apply:

(i) Requests for proposals shall be publicized and identify all evaluation factors and their relative importance[§ 200.320(b)(2)(i)];

(ii) Proposals shall be solicited from an adequate number of qualified sources [§ 200.320(b)(2)}

(iii) Any response to publicized requests for proposals shall be considered to the maximum extent practical[§ 200.320(b)(2)(i)];

(iv) The department responsible for issuing the request for proposal shall have a written method for conducting technical evaluations of the proposals received and for selecting recipients[§ 200.320(b)(2)(ii)];

(v) Contracts shall be awarded to the responsible firm whose proposal is most advantageous to Newton County, with price and other factors considered[§ 200.320(b)(2)(iii)]; and

(vi) Newton County may use the competitive proposal procedure 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. This method, where price is not used as a selection factor, can only be used in the procurement of A/E

professional services. It cannot be used to purchase other types of services though A/E firms that are a potential source to perform the proposed project[§ 200.320(b)(2)(iv)].

C. Noncompetitive Procurement. [§ 200.320(c)]. Noncompetitive procurement shall be used only if one or more of the following circumstances apply:

1. The item is available only from a single source;
2. Public exigency or emergency 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 Newton County; or
4. After solicitation of a number of sources, competition is determined inadequate.

CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

[§ 200.321]

Newton County shall take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps shall include the following:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs 1. through 5. of this section.

DOMESTIC PREFERENCE

[§ 200.322]

To the extent consistent with law, Newton County shall, to the greatest extent practicable under

a federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section shall be included in all contracts and purchase orders for work or products under a federal award.

RECOVERED MATERIALS

[§ 200.323}

Newton County and its contractors shall comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40

C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. The decision not to procure such items shall be based on a determination that such procurement items: (a) are not reasonably available within a reasonable period of time; (b) fail to meet the performance standards set for the applicable specifications or fail to meet the reasonable performance standards of the procuring agencies; or (c) are only available at an unreasonable price.

CONTRACT COST AND PRICE

[§ 200.324}

A. Cost Analysis[§§ 200.324(a) and (c)]. Newton County shall perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold as defined in 2 C.F.R. § 200.1 and 48 C.F.R. Part 2, subpart 2.1 ("Simplified Acquisition Threshold") including contract modifications. The method and degree of analysis shall be dependent on the facts surrounding the particular procurement situation, but as a starting point, Newton County shall make independent estimates before receiving bids or proposals. Costs or prices based on estimated costs for contracts under the federal award shall be allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for Newton County under 2 C.F.R. Part 200, subpart E ("Cost Principles"). Newton County may reference its own cost principles that comply with the federal cost principles.

B. Profit[§ 200.324(b)]. Newton County shall negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where a cost analysis is performed. To establish a fair and reasonable profit, consideration shall 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.

C. Procurement by Cost Plus Percentage[§ 200.324(d)]. Newton County shall not use either the "cost plus a percentage of cost" or the "percentage of construction cost" method of contracting.

AGENCY REVIEW [§ 200.325]

A. Technical Specifications[§ 200.325(a)]. Newton County shall make available, upon request of the federal awarding agency or pass-through entity, technical specifications on proposed procurements where the federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition.

B. Pre-procurement Review[§ 200.325(b)]. Newton County shall make available upon request for pre-procurement review by the federal awarding agency or pass-through entity procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

1. Newton County's procurement procedures or operation fails to comply with the procurement standards in this part;
2. 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;
3. The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;
4. The proposed contract 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
5. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

BONDING [§ 200.326]

For construction or facility improvement contracts that exceed the Simplified Acquisition Threshold, Newton County shall require, at a minimum, the following:

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 the bid, execute such contractual documents as may be required within the time specified [§ 200.326(a)J];

2. A performance bond from the contractor for 100 percent of the contract price. The "performance bond" shall be executed in connection with the contract to secure fulfillment of all the contractor's requirements under such contract[§ 200.326(b)]; and
3. A payment bond from the contractor for 100 percent of the contract price. The payment bond shall be executed in connection with the 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 [§ 200.326(c)J.

CONTRACT PROVISIONS [§ 200.327)

As applicable, contracts made by Newton County, along with all related subcontracts, shall contain the following provisions:

A. Remedies [§ 200 Appendix II (A)J. All contracts in excess of the Simplified Acquisition Threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such sanctions and penalties as appropriate.

B. Termination [§ 200 Appendix II (B)J. All contracts in excess of \$10,000 shall contain suitable provisions for termination for cause and for convenience, including the manner by which termination shall be effected and the basis for settlement.

C. Equal Employment Opportunity[§ 200 Appendix II (C)]. All contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. Part 60-1.3 shall include the equal opportunity clause

provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339) as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as implemented by regulations at 41 C.F.R. Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

D. Davis-Bacon Act, as Amended (40 U.S.C. §§ 3141-3148) [§ 200 Appendix II (DJ)]. When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by Newton County shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144, and 3146- 3148) as supplemented by Department of Labor regulations (29 C.F.R. Part 5, " Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. Additionally, contractors shall be required to pay wages not less than once a week. Newton County shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract shall be conditioned upon the acceptance of the wage determination. Newton County shall report all suspected or reported violations to the federal

awarding agency. The contracts shall also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). Newton County shall report all suspected or reported violations of the Copeland "Anti-Kickback" Act to the federal awarding agency.

E. Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708) [§ 200 Appendix II (E)].

Where applicable, all contracts awarded by Newton County in excess of \$100,000 that involve the employment of mechanics or laborers shall include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). The requirements of 40 U.S.C. § 3704 shall be applicable to construction work and shall provide that no laborer or mechanic is required to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

F. Rights to Inventions Made Under a Contract or Agreement [§ 200 Appendix II (F)]. If the federal award meets the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and Newton County wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment, or performance of experimental, developmental, or research work under that "funding agreement," Newton County shall comply with the requirements of 37 C.F.R. Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

G. Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act (33 U.S.C.

§§ 1251 -1387), as Amended [§ 200 Appendix II (G)]. Contracts in excess of \$150,000 shall contain a provision that requires the contractor to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations shall be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

H. Debarment and Suspension (Executive Orders 12549 and 12689) [§ 200 Appendix II (H)]. Newton County shall not make a contract award to any party listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. § 180 that implement Executive Orders 12549 (3 C.F.R. Part 1986 Comp., p. 189) and 12689 (3 C.F.R. Part 1989 Comp., p. 235), "Debarment and Suspension."

I. Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352) [§ 200 Appendix II (I)]. Contractors that apply or bid for an award exceeding \$100,000 shall file the required Byrd Anti-Lobbying certification. Each tier shall certify to the tier above that it will not and has not used federal

appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award.

J. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment[§ 200 Appendix II (K)]. Newton County shall not procure or enter into a contract to procure equipment, services, or systems that use telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities) as a substantial or essential component of any system, or as critical technology as part of any system.. Further, Newton County shall not procure or enter into a contract to procure video surveillance or telecommunications equipment and services produced or provided by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities). Additionally, Newton County shall not procure or enter into a contract to procure video surveillance equipment or telecommunications or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Adopted by the Newton County Commissioners Court, this 13th day of June, 2022.