

# Grants Update

**Caran Curry, Senior Grants  
Counsel, AML**

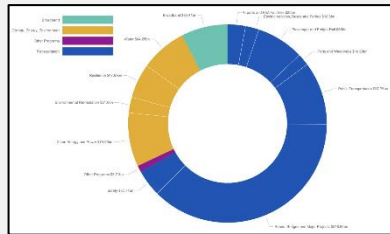
**[ccurry@arml.org](mailto:ccurry@arml.org)**



# Infrastructure Grant Resources



## Infrastructure Resources



## BIL Launchpad



## Brookings Federal Infrastructure Hub

Summary and detailed estimates of likely program spending

FUNDING BY AGENCY (Click to filter view)

Department of Transportation: \$67.1B (63.7%)	Department of Energy: \$83.8B (79.4%)
Environmental Protection Agency: \$57.8B (54.8%)	All other (each less than 5.0%): \$55.6B (52.9%)
Department of Commerce: \$33.7B (32.0%)	Department of the Army: \$3.71B (3.5%)
Department of Homeland Security: \$7.8B (7.4%)	Department of the Interior: \$72.3B (68.9%)

COMPETITIVE (FORMER A - Click to filter view)

Formula: \$462.8B (76.4%)	Competitive: \$203.8B (23.6%)
---------------------------	-------------------------------

NOFO (FIBRINGS) OUT-TO-STATE

Existing: \$662.2B (76.7%)	New: \$201.5B (23.3%)
----------------------------	-----------------------

Program	Estimate	Climate	New	Competitive	Agency
National Highway Performance Program	\$1,462.2B	No	No	No	Department of Transportation
Surface Transportation Block Grant Program	\$4,459	No	No	No	Department of Transportation
Boardwalk, beach, scenic, and destination program	\$43.5B	No	Yes	No	Department of Commerce, National Transportation and Information Administration



Government Finance Officers Association

## IIJA Notice of Funding Opportunity (NOFO) Tracker

PROGRAM NAME	ELIGIBLE USFS	TYPE OF FUNDING AND ELIGIBLE APPLICANTS	APPLICATION LINK AND DEADLINE INFORMATION
Charging and Fueling Infrastructure (CFI) Discretionary Grant Program	U.S. Electric Vehicle (EV) charging stations, hydrogen fueling stations, and other infrastructure for electric and hydrogen vehicles.	Eligible applicants include: State, local, tribal, and territorial governments; and private entities, including public utilities, and private utilities with transportation functions, including port authorities.	<ul style="list-style-type: none"> <li>Current Notice of Funding Opportunity (NOFO)</li> <li>This deadline for applications is 11:59 PM ET on June 13, 2023 (NOFO also re-opens on a regular basis).</li> </ul>
Safe Streets for All Program	U.S. Safe Streets for All Program	Eligible applicants include: State, local, tribal, and territorial governments; and private entities, including public utilities, and private utilities with transportation functions, including port authorities.	<ul style="list-style-type: none"> <li>Current Notice of Funding Opportunity (NOFO)</li> <li>This deadline for applications is 10:00 am EDT (Monday, July 30, 2023).</li> </ul>



THE UNITED STATES  
CONFERENCE OF MAYORS

**NLC** NATIONAL  
LEAGUE  
OF CITIES  
CITIES STRONG TOGETHER

**RESULTS**  
FOR AMERICA

**Delivery**  
Associates

WITH  
SUPPORT  
FROM

**Bloomberg**  
Philanthropies

## Local Infrastructure Hub



# Empowering local leaders to access federal infrastructure dollars—and drive their communities forward

LEARN MORE

The Local Infrastructure Hub is a national program designed to connect cities and towns with the resources they need to access federal infrastructure funding in order to drive local progress, improve communities, and create jobs for residents.

# Fiscal Responsibility Act of 2023

DOES NOT claw back ARPA local funding

Caps non-defense discretionary spending for FY 24 at roughly \$704B, 1% increase in FY 25

Reforms the permitting process for federally funded infrastructure projects, shortens review time and page numbers for environmental reviews

Claw backs for certain unobligated federal funding appropriated in response to the COVID-19 pandemic

Cuts IRS budget increases enacted in the Inflation Reduction Act (IRA)

# ARPA “FLEX”

- **Passed Congress as a part of the federal budget Dec. ‘22**
- **Treasury had 60 days to update rules**
- **CAP on FLEX Spending: Greater of \$10M or 30% of total ARPA received**
- **Really only Metros need to know this**
- **Additional Eligible Uses:**
  - 1. Emergency relief from natural disasters, including temporary emergency housing, food assistance, financial assistance for lost wages, or other immediate needs**
  - 2. Transportation infrastructure eligible projects**
  - 3. Any program, project, or service that would also be eligible under HUD’s Community Development Block Grant program (CDBG)**

# ARPA UPDATE

## Time to get your funds spent!

- **Obligated by Dec. 31, 2024**
- **Expended by Dec. 31, 2026**

## Ways funds have been spent

- **Indirect Costs (total modified indirect cost rate)**
- **Rev. Repl. Existing salaries**
- **Share unusual expenditures?**



# **DIRECT PAY – CLEAN ENERGY TAX CREDITS**

- **Inflation Reduction Act – Install Clean Energy Products**
- **State & locals**
- **How it works – file tax return, get the direct/(elective) pay**
- **Proposed guidance – until Aug. 12 to comment**
  - **Process, timeline, how to claim**
- **AGFOA, NLC, NACO filed joint comments**
  - **Penalty provision if not handled correctly**
- **Webinars on-line**

# **DIRECT PAY – CLEAN ENERGY TAX CREDITS**

- **Ends in 2032**
- **Webinars on-line**
- **Pre-filing registration requirement to prevent fraud**
- **Portal for pre-filing not open till fall**
- **Stay tuned for revisions**



# DIRECT PAY – CLEAN ENERGY TAX CREDITS

## Example

City or County installs solar for 700 homes for \$5M

- Potentially \$1.5M back in cash

BUT, if mistake on tax filing (claim misfigured) and received an “excessive payment” then city/county must **pay the excessive amount back + a \$20% penalty (per the interim rule)**

## Excessive Payments:

Improperly claimed bonus credit amt.

Error in calculating a credit, inflated basis

Misapplication of the credit utilization rules

# **DIRECT PAY – CLEAN ENERGY TAX CREDITS**

---

## **Cons:**

- **Big financial penalty if not correctly set up**
- **Maybe expensive – specialists**
- **Has a prevailing wage (Davis Bacon) & apprenticeship requirements**

# Upcoming AML Trainings 2023

- |                               |         |          |
|-------------------------------|---------|----------|
| • Grants Gang Meeting         | AML     | Oct. 19? |
| • Purchasing                  | AML     | Nov.     |
| • Water/Sewer Grants Workshop | SE AR   | Fall     |
| • Disaster Response           | AML     | TBD      |
| • Grant Writing/Management    | Virtual | Fall     |

## Certifications via Learning Management System

Finance

Purchasing

General



# **Strong Southern Cities Initiative (AR, AL, MS, LA)**

## **State Grant Navigators**

**Find \$\$\$**

**Formulate Ideas**

**Write Grants**

**Edit & Polish Proposals**

**Create Tables & Maps**

**(Data scientist on team)**

**York Haverkamp**

**[Haverkamp@nlc.org](mailto:Haverkamp@nlc.org)**

**865-287-5578**

# **Simplified Federal Grant Applications**

- **Report in 5 years**

# Disaster Funding

**CDBG – DR**

**Based on FEMA damage data**

**Used for any unmet needs after FEMA & SBA**

**Local gov. can be a direct grantee**

**MIDs – Most Impacted & Distressed Areas**

**Think: long term recovery; focus maybe housing**

# **Disaster Funding**

**CDBG – DR**

**Example: 2019 River Flooding – DR- 4441**

**Jefferson & Perry County – MID**

**Required to spend 80% of AEDC's \$8.9M there**

**Not really an application – HUD releases a notice**

**Unmet Needs Assessment & Action Plan**





# Disaster Funding

**CDBG – DR**

**Current Senate Bill to reform the CDBG-DR  
S. 1686**









# FEMA

**Federal Emergency Management Agency**  
**fema.gov**

**Kevin Stewart**  
**Operations Section Chief**  
**[Kevin.Stewart@fema.dhs.gov](mailto:Kevin.Stewart@fema.dhs.gov)**

**Faustino (Tino) Salinas**  
**Office of External Affairs (LR)**  
**(202) 805-6996**  
**[Faustino.Salinas@fema.dhs.gov](mailto:Faustino.Salinas@fema.dhs.gov)**

# FEMA Funding

- **Emergency Work (6 months):**
  - **A: Debris removal (public interest)**
    - **Damaged cars, boats, vegetive debris, construction and demolition debris, sand, dirt, gravel, etc.**
  - **B: Emergency protective measures**
    - **Eliminate or lessen immediate threats to lives, etc**

# FEMA Funding

- **Permanent Work (18 months unless extension):**
- **Restoration of disaster-damaged, publicly owned facilities**
  - **C: Roads & Bridges**
  - **D: Water Control Facilities**
  - **E: Building & Equipment**
  - **F: Utilities**
  - **G: Parks, Recreation, other – Mass transit**

# Prepare in Advance

- **Meet in advance with team to anticipate issues**
- **Have a plan in place**
- **Meet with County Judge & Emergency Manager**



# Prepare in Advance

- **AML has tentative plans for training sessions**
  - **Toolkit**
    - **Resolutions**
    - **Forms (document employee time, equipment usage, etc.)**
    - **Mutual Aid Agreements**
    - **Sample contract & bid clauses (email Caran)**
    - **Sample RFQ/RFP's for debris removal, debris management, Manage (maximize) FEMA reimbursement – grant manager**

# FEMA Federal Assistance

- Think of FEMA as “the piggy bank”
- ADEM – Arkansas Division of Emergency Services – who you deal with directly
- Types of Assistance:
  - Individual
  - Public Assistance – Emergency or Permanent Work
  - Assisted Listing # (CFDA#) - 97.036 Disaster Grants – Public Assistance (Presidentially Declared Disasters)
  - Other grants: Individual
- Address urgent life-threatening issues
- Maximize the amount that FEMA will reimbursement
- Address Debris Removal
  - Initial vs. long term

# FEMA Federal Assistance

- **Must follow Uniform Grant Guidance – UGG**
- **For the most part, cost reimbursement basis**
  
- **Address urgent life-threatening issues**
- **Maximize the amount that FEMA will reimbursement**
- **Address Debris Removal**
  - **Initial vs. long term**

# FEMA Cost Reimbursement

- Have to have sufficient damages to get reimburse by FEMA
- State-wide threshold – based on formula \$5.3+M
- Individual counties

County Name	Population	County Indicator	County Threshold
<a href="#">Pulaski County</a>	397,931	\$ 4.44	\$ 1,766,813.64
<a href="#">Benton County</a>	278,774	\$ 4.44	\$ 1,237,756.56
<a href="#">Washington County</a>	242,793	\$ 4.44	\$ 1,078,000.92
<a href="#">Sebastian County</a>	127,941	\$ 4.44	\$ 568,058.04
<a href="#">Faulkner County</a>	123,191	\$ 4.44	\$ 546,968.04
<a href="#">Saline County</a>	122,308	\$ 4.44	\$ 543,047.52
<a href="#">Craighead County</a>	109,875	\$ 4.44	\$ 487,845.00
<a href="#">Garland County</a>	99,694	\$ 4.44	\$ 442,641.36
<a href="#">White County</a>	77,075	\$ 4.44	\$ 342,213.00
<a href="#">Lonoke County</a>	73,824	\$ 4.44	\$ 327,778.56
<a href="#">Jefferson County</a>	68,199	\$ 4.44	\$ 302,803.56

# FEMA Cost Reimbursement

- **FEMA only reimburses for 75% - strict rules**
- **State of Arkansas no longer contributes 12.5% match**
  - **City – 25% share, can use in-kind match (documentation)**
- **There are some exceptions to the 75%**
  - **Example: Debris removal**
    - **100% for a certain time period per the Pres.**
    - **30 days (Flexible start time, different jurisdictions may want different times)**
    - **Can ask for an extension of the time**

# **FEMA Cost Reimbursement**

**What services do you already have in place?**

**Example: NLR had debris removal in place**

**NLR extended the date on the contract**

**NLR hit the ground running immediately**

**FEMA says contracts without the federal clauses may be able to be reformed by adding clauses (below)**

# Debris Removal

**Location – announce pick up at the curb**

**Preferable to sort waste**

**Vegetation**

**Construction**

**FEMA requires that the debris removal be audited/managed  
– suggest you hire an independent company to do this**

**Manage (maximize) FEMA reimbursement – hire a grant  
manager**







# **Debris Removal**

**Knuckle boom type crane: 60 to 80 cubic yards**

**LR was picking up 17,000 of cubic yards a day**

**Dump truck: maybe 10 cubic yards**

**Had to help the companies get subcontractors to work**

**Streets and roads will suffer**



<https://www.fema.gov/pdf/government/grant/pa/demagde.pdf>

**Good Chapters on:**

**Procurement**

**Debris Removal**

**Debris Monitoring**

**Contract Provisions**

# Public Assistance

Debris Management Guide

FEMA-325 / July 2007



**FEMA**

# Cooperative Purchasing

A cooperative purchasing agreement is limited to commodities & services for which the public procurement unit may realize savings or material economic value, or both

ACA 19-11-249  
“new”

# Commodities in Cooperative Purchasing

**A Commodity  
includes:**

- **Goods**
- **Leases**
- **Insurance**

**A Commodity DOES  
NOT include:**

- **Lease or interest in  
real property**
- **Exempt commodities  
or services**
- **Capital improvements**

**ACA 19-11-203**

# **Exempt Commodities, Cooperative Purchasing**

- **Advertising**
- **Items bought for resale**
- **Contracts for construction of building or major repairs**
- **Fees**
- **Livestock and livestock products**
- **Maintenance on office equipment**
- **Membership in professional organizations**
- **Perishable food stuffs**
- **Postage**
- **Printed materials for use in a library**
- **Taxes**
- **Travel expenses**
- **Works of art for museums or public display**
- **Utility services or equipment**

**ACA 19-11-203**

# **Commodities in Cooperative Purchasing**

**Can TIPS or Sourcewell be used to purchase lights for a city park?**

**ACA 19-11-203**



# Force Account

***Force Account*** is the use of a grantee's own labor force to carry out a capital project.

**Important to account for when applying for FEMA reimbursement for things like debris removal.**

**FEMA list of force account expenses to keep in mind:**

- . Employee Payroll records**
- . Records of city-owned equipment used**
- . Rental equipment invoices**
- . Documentation from final disposal locations**

# **Four Circumstances Justifying a Noncompetitive Procurement:**

- 1. Item available only from a single source**
- 2. Public exigency or emergency**
- 3. Awarding agency allows noncompetitive proposals**
- 4. After solicitation of a number of sources, competition is determined inadequate**

# Emergency v. Exigency

FEMA defines both *exigency* and *emergency* as situations that demand immediate aid or action. The exception is only permissible during the actual exigent or emergency.

Exigency- there is a need to avoid, prevent, or alleviate serious harm or injury, to the City and the use of competitive procurement procedures would prevent urgent action required to address the issue.

Emergency- a threat to life, public health or safety that requires immediate action to alleviate the threat

# **Four Circumstances Justifying a Noncompetitive Procurement:**

- 1. Item available only from a single source**
- 2. Public exigency or emergency**
- 3. Awarding agency allows noncompetitive proposals**
- 4. After solicitation of a number of sources, competition is determined inadequate**

# **Elements for Noncompetitive Procurement Justification/Documentation**

- 1. Which of the four circumstances justify noncompetitive procurement**
- 2. Description of the product or service**
- 3. Explain why it is necessary**
- 4. State how long the contract will be used**
- 5. List steps taken to determine that regular bidding could not have been used**
- 6. Describe any known conflicts of interest**
- 7. Any other information justifying use of noncompetitive procurement**

# Reasonable Costs Analysis

**Definition:** A cost is reasonable if it does not exceed what an average person would spend under the same or similar circumstances

## Factors FEMA Considers

- **Circumstances**
- **Availability of materials**
- **Project type**
- **Complexity**
- **Sole Sourcing**
- **Best Construction Practices**
- **Codes and Standards**
- **Other Relevant Information**
- **Cost is Ordinary and Necessary**
- **Follows Federal, State, and Local laws**
- **Market Price for Comparable Goods or Services**
- **Were there Emergency or Exigent circumstances?**
- **Follows procurement requirements**

# **Comparison Documentation for Reasonable Cost**

- 1. Validation of Recipients Price Analysis**
- 2. Historical Cost**
- 3. Industry Standard Costs**
- 4. Comparable Costs of other Applicants**
- 5. FEMA Cost Codes**
- 6. Use of Low Bid**

# Federal Requirements for Sole-Source Contracts

## MUST:

- Include required contract clauses (2 CFR §200.326 and Appendix II)
- Include the Federal bonding Requirements (2 CFR §200.325)
- Be awarded to a responsible contractor
- Complete a cost analysis
- Not be a Cost-plus-percentage-of-cost contract
- Include procurement requirements in 2 CFR §200.318



# State Bid Thresholds

State Law Controls as it is more restrictive than Federal Law

## General Procurement

\$35K

- Pens
- Paper
- 'Commodities'
- **1<sup>st</sup> Class Cities ONLY**

A.C.A 14-58-303

## Public Works

\$50K

- Permanent Improvements
- Building
- Repairs
- Pipes in Ground

A.C.A 22-9-203

# **Capital Improvements**

**Any construction, repairs, alterations, and renovations or on site and off site improvements undertaken by the City or to City owned, operated or otherwise managed land, buildings, structures, utilities**

**ACA 19-11-203**

# Federal Purchases

## Micro Purchases

Less than \$2K if  
construction or  
\$10K

- Not Competitive Bidding
- Must document the reasonableness of the price

## Small Purchases

Over \$10K-\$250K

- Competitive Bidding
- Must have price quotes

Over \$250K *must* have a cost analysis

# Competition

All Procurement must allow for a full and open competition

The process cannot have/require:

- Have real or perceived advantages
- Unreasonable requirement on vendors to qualify
- Unnecessary experience requirements
- Excessive bond
- Specify specific brand names

**UGG §200.317-319**

# Geographical Consideration

**Cannot give locals an advantage-UGG § 200.319**

- **If having a mandatory pre-bid conference, must accommodate remote vendors, if requested**
- **Preference for Domestic Goods (US) including specifically iron, aluminum, steel, cement, and other manufactured products UGG § 200.322**
- **Note: some grants require this via BABA requirement**

# **7 Instances of Not Being Competitive**

- 1. Unreasonable requirement for firms to qualify**
- 2. Unnecessary experience and bonding requirements**
- 3. Noncompetitive pricing practices**
- 4. Noncompetitive contracts to consultants on retainer**
- 5. Conflicts of Interest**
- 6. Specifying brand names products and not allowing equal product to be offered instead**
- 7. Any arbitrary action in procurement process**

**UGG § 200.319**

# Minority Purchases

**Disadvantaged Business Enterprise aka DBE**

**Federal definition and Ark definition differ**

**Search for Small, Minority, and  
Women Owned Businesses at  
[www.arkansasedc.com](http://www.arkansasedc.com) or call them**

**2 § 200.321**

# **County, City/Town Policies**

- Must have a written policy that is consistent with BOTH Federal and State rules**
- Policies may be more restrictive than State or Federal but cannot be less restrictive**



# Federal Grants

- The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used

# Documenting Competition

## May Sure You:

- **Describe the item**
- **Include Shipping and Delivery costs**
- **Maintain the Documentation**
- **Have requestor sign and date the documentation**

**Contracts/ PO's must include**

**Appendix II  
of  
Uniform Grant Guidance**

# Appendix II

- **Appendix II(A): Contract for more than \$250k...must address administrative, contractual, or legal remedies  
See 41 U.S.C 1908**
- **Appendix II(B): Contract for more than \$10k must address termination for cause and for convenience by the City**
- **Appendix II(C): all federally assisted construction contracts must include the equal opportunity clause provided under 41 CFR 60-1.4(b)**
- **Appendix II(D): Davis-Bacon Act (40 U.S.C. 3141-3148) only applies if over \$10 million**

# Appendix II

- **Appendix II(E): Contract more than \$100k must include a provision in compliance with 40 U.S.C. 3702 & 3704**
- **Appendix II(F): Rights to Inventions Made Under a Contract or Agreement. See 37 CFR Part 401 for requirements.**
- **Appendix II(G): Contracts more than \$150k must comply with the Clean Air Act and Federal Water Pollution Control Act**
- **Appendix II(H): A contract award cannot be given to parties listed on the System for Award Management (SAM) exclusion list**

# Appendix II

- **Appendix II(I)**: Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)- for awards over \$100k contractors must file required certification.
- **Appendix II(J)**: Procurement of Recovered Materials must comply with §6002 of the Solid Waste Disposal Act
- **Appendix II(K)**: Prohibition on certain telecommunications and video surveillance services or equipment. See Public Law 115-332 for details.
- **Appendix II(L)**: Domestic preferences for procurements



# Questions and Comments





**Thank You For All You Do**