

January 11, 2021

Mr. Ryan Buras
Governor's Authorized Representative
California Governor's Office of Emergency Services
3650 Schriever Avenue
Mather, California 95655

Reference: Confirmation of Direction for Processing NSPOs & Small PW Versions
Recipient: California Governor's Office of Emergency Services
Cal OES Log: 720742 FEMA Log: 401035

Dear Mr. Buras:

This letter is in response to an unsigned letter from California Governor's Office of Emergency Services (Cal OES) Recovery Closeout Team dated October 28, 2020. The letter was written following an October 15, 2020 teleconference between members of the FEMA Closeout Branch and members of the Cal OES Closeout Team to confirm the direction FEMA provided Cal OES regarding timeliness of Net Small Project Overruns (NSPO) and the versioning of small project worksheets (PW).¹

FEMA will not normally review an overrun for an individual small project.² The normal procedure for small projects will be that when a Subrecipient discovers a significant overrun related to the total final cost for all small projects, the Subrecipient may submit an appeal for additional funding in accordance with §206.206, within 60 days following the *completion* of all its small projects.³ The Recipient will review and forward appeals from a Subrecipient with a written recommendation to the FEMA Regional Administrator within 60 days of *receipt*.⁴

In your letter, the Cal OES Recovery Closeout Team infers the 60-day timeline to submit an NSPO appeal starts the day following completion of the physical work of its last small project and continues despite instances where a small project from the same Subrecipient/Disaster is pending approval from FEMA and a small project from the same Subrecipient/Disaster is pending obligation from FEMA. Further, your letter surmises the 60-day timeline does not stop despite a project version request that potentially changes a small project to a large project for the same Subrecipient/Disaster is under review by FEMA and the 60-day timeline does not stop pending the receipt of insurance determinations and/or proceeds.

¹ Unsigned Cal OES Recovery Closeout Team letter dated Oct. 28, 2020.

² Exceptions listed in Public Assistance and Program Guide V4 2020 pg. 199-2000

³ 44 CFR § 206.204(e)(2)

⁴ 44 CFR § 206.206(c)(2)

The following is meant to clarify FEMA's definition of NSPO first appeal timelines and addresses section 1 of Cal OES' October 28, 2020 letter. Project completion is understood to be the day work on the project concludes. Further, this date is indicated on the Project Completion and Certification Report (P.4) sent from Cal OES to FEMA. NSPO first appeals are due to the Recipient within 60-days following the completion of all the Subrecipient's small projects.⁵ Subsequently, NSPO first appeals are due to FEMA from the Recipient within 60-days of receipt from the Subrecipient.⁶ Below is a list of instances where tolling, or pausing the above-mentioned timelines is deemed appropriate:

- Pending FEMA approval of a small project(s) for the same Subrecipient and disaster event
- Pending FEMA obligation of a small project for the same Subrecipient and disaster event
- Pending receipt of final insurance documentation and/or proceeds for a small project associated with the Net Small Project Overrun (NSPO) appeal for the same Subrecipient and disaster event

When a small project is versioned into a large project or actual claimed costs move a small project to a large project, the completion date of the final project for that Subrecipient/Disaster remains the starting point of the NSPO first appeal timeline. FEMA will analyze the actual costs claimed for the large PW in accordance with 44 CFR § 206.205(b) and will advise Cal OES and the Subrecipient of the approved final cost of the large project(s) separately.⁷ The Subrecipient should engage the recipient and FEMA as soon it identifies a need to change the scope of work (SOW) to allow FEMA time to review the changes for eligibility and EHP compliance. Beginning work before a change in SOW is reviewed and approved by FEMA jeopardizes PA funding.⁸

In conclusion, PWs that have not been approved, PWs that have not been obligated, PWs awaiting insurance proceed information, and PWs that FEMA has received a SOW change for toll the NSPO submission timelines. This includes small projects related to DR-4482-CA and instances whereby a Subrecipient is still identifying eligible projects within the incident period.

If you have any questions, please contact me at 510-627-7037.

Sincerely,



Robert Pesapane, Director
Recovery Division
FEMA Region IX

⁵ 44 CFR § 206.204(e)(2)

⁶ 44 CFR § 206.206(c)(2)

⁷ FEMA letter to Cal OES dated October 30, 2020 / City of Santa Barbara NSPO

⁸ Public Assistance and Program Guide V4 2020 pg. 194