



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

August 25, 2026

CBCA 8852-FEMA

In the Matter of CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA

Alexander J. Holtzman and Michael Levin-Gesundheit, Office of the City Attorney, San Francisco, CA; Wendy Huff Ellard of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, Jackson, MS; and Chris Bomhoff of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, Fort Lauderdale, FL, counsel for Applicant.

Robert Larsen, Public Assistance Officer, Eli Owen, Assistant Director, Fan Jia, Program Manager, Tama Harville and Destiny Saechou, Associate Governmental Program Analyst, Office of Emergency Services, Mather, CA, appearing for Grantee; and Carl DeNigris, Jasmine Jones, and Trevor Morris-Seekins, Governor's Office of Emergency Services, Mather, CA, counsel for Grantee.

Margaret Bushko and Maria Rivera Sostre, Office of Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, Washington, DC, counsel for Federal Emergency Management Agency.

Before the Arbitration Panel consisting of Board Judges **BEARDSLEY**, **GOODMAN**, and **KULLBERG**.

KULLBERG, Board Judge, writing for the Panel.

The applicant, the City and County of San Francisco, California (CCSF), seeks public assistance (PA) in the amount of \$2,790,642.74 for the CCSF's COVID-19 community outreach services program during the period from August 1 through December 31, 2022, for the promotion of vaccination and testing and the support of isolation and quarantine in response to the pandemic. The Federal Emergency Management Administration (FEMA) contends that CCSF seeks PA for the cost of contracts that include either unsupported or

ineligible expenses. CCSF contends that its request consists of eligible expenses that are supported by the record. This matter was heard on the written record. For the reasons stated below, the panel finds that CCSF is not eligible to receive PA in the amount claimed.

Background

On March 20, 2020, a major disaster was declared in the State of California in response to the COVID-19 pandemic. FEMA's Exhibit 6 at 1.¹ CCSF executed contract #1000023254 (contract), dated May 1, 2022, with the San Francisco Public Health Foundation (SFPHF) "to secure program management services to improve access to COVID vaccinations and related services." Applicant's Exhibit 5 at 4. The first amendment to CCSF's contract with SFPHF, dated August 1, 2022, set forth a description of services to be provided by ten subcontractors. Applicant's Exhibit 1 at 18. The description of services to be provided by nine of the ten subcontractors included "COVID-19 mitigation and relief services" and "navigation to testing and vaccine, support community mobile testing sites and access for rapid COVID testing." *Id.* Six of those subcontractors included "support for families in isolation" in its description of services, and another three of those subcontractors included "contact investigation and contact tracing" in its description of services. *Id.* Only one of the subcontractor's description of services stated that it would provide "training of [COVID] updates on vaccine, testing, [COVID] therapeutics, emerging [COVID] updates[,] and related [COVID] services." *Id.*

On October 10, 2023, CCSF submitted to FEMA its streamlined project application (SPA) for PA in the amount of \$7,620,506.56. FEMA's Exhibit 3 at 1, 26. CCSF's request for PA included medical and vaccination services, contracted services for vaccination support, and rented equipment for the period from July 1, 2022 through February 3, 2023. *Id.* at 1. In response to CCSF's SPA, FEMA sent CCSF a request for information (RFI) that sought clarification of SFPHF's services that included the following:

[W]hat specific services were provided as "COVID-19 mitigation and relief services to . . . support for families [in isolation]."

[S]pecifically related to [three of] the consultants . . . it appears costs were incurred related to "contact investigation and contact tracing." Please calculate the specific costs related to "contact investigation and contact tracing."

¹ Citations to page numbers are to the .pdf page number unless otherwise noted.

FEMA's Exhibit 4 at 1. CCSF responded to the RFI and provided a summary of the services provided. FEMA's Exhibit 5 at 1-7.

On April 5, 2025, FEMA issued its determination memorandum (DM) that partially approved CCSF's SPA but denied the remainder of the request for SFPHF's contract services, which totaled \$2,790,642.74. FEMA's Exhibit 6 at 3. The DM referenced the RFI that "asked the Applicant to provide the 'specific costs related to contact investigation and contact tracing' contained in its contracts for community outreach tracing." *Id.* at 2. Additionally, the DM stated that "FEMA examined the Scope of Work and the invoices provided and determined that the Applicant listed case management, case investigation and contact tracing but did not separate the costs nor provide[] details of the work performed by the staff included in the contracts which totaled \$2,790,642.74[] in costs." *Id.* Finding CCSF's response to the RFI to be inadequate, the DM concluded that "the Applicant has not provided the requested information and/or adequate and necessary documentation to assert if the work was performed under the criteria of FEMA's COVID-19 policies." *Id.* at 3.

On June 30, 2025, CCSF appealed FEMA's denial of its request for PA in the amount of \$2,790,642.74. FEMA's Exhibit 7 at 1. That disputed amount consisted of five invoices from SFPHF for the cost of its services. *Id.* at 3. CCSF contended that FEMA had erroneously determined that any portion of SFPHF's invoiced costs included contact tracing. *Id.* at 6. Additionally, CCSF argued that the costs shown on the five invoices were only for "work related to COVID-19 vaccine outreach services." *Id.* at 8.

By letter dated January 27, 2026, FEMA forwarded to CCSF and the grantee, the California Governor's Office of Emergency Services, its denial of CCSF's appeal of the DM. Applicant's Exhibit 2 at 2. FEMA's appeal analysis, which was attached to its letter, stated the following:

Here, the Applicant asserts that the claimed costs totaling \$2,790,642.74 are eligible for PA. The Applicant provided additional explanation and documentation to prove that costs related to contact tracing was not included in the claimed work. However, the submitted invoices do not make a distinction on the work performed. Rather, all five invoices show that funds were given for "consultant/subcontractors" and do not specify the type of work that they performed. It is not clear what work was performed by the consultant/subcontractors within the invoice period. Therefore, FEMA is unable to determine whether the claimed work is related to the performance of eligible emergency work. As such, the claimed work is ineligible for PA.

Id. at 5. FEMA concluded its denial finding that CCSF “ha[d] not provided adequate documentation to substantiate its claim as eligible.” *Id.*

CCSF filed its request for arbitration (RFA) with the Board, and FEMA submitted its opposition. A second round of submissions included CCSF’s response to FEMA’s opposition to the RFA, and FEMA filed its reply to CCSF. The parties elected to have this matter decided on the record, and CCSF filed its closing brief in response to FEMA.

Discussion

At issue is whether CCSF is eligible to receive PA for the services provided by its subcontractors under its contract with SFPHF. FEMA contends that CCSF “contracted (through three of the subcontractors) for ineligible work, such as contact investigation and tracing, alongside potentially eligible work.” FEMA’s Response to Applicant’s Request for Arbitration at 12. In general, FEMA argued that CCSF had not provided sufficient documentation “to allow FEMA to make an eligibility determination tying requested costs to eligible [emergency protective measures (EPMs)] under FEMA policy.” *Id.* at 14. With regard to the invoices that CCSF submitted, FEMA argued that the invoices “[did] not provide a breakdown of the work completed by personnel, nor . . . provide[] pay stubs or activity logs with such information.” *Id.* at 20. “Rather, the invoices contain lump sum totals for personnel expenses, subcontractors, and general expenses such as ‘office supplies’ or ‘equipment maintenance.’” *Id.* at 21.

CCSF argues that FEMA errs in its finding that any of SFPHF’s subcontractors’ work included contact tracing, and it has shown that “contact tracing activities were not performed during the July 1 through December 31, 2022 period at issue.” Applicant’s Closing Brief at 2. Additionally, CCSF argues that it provided all information required under FEMA policy, and time sheets and activity logs were not required. *Id.* at 3. Finally, CCSF argues that the panel should set aside “what appears to have been a clerical error for three of the ten subcontractors—the contract only describes COVID-19 emergency protective measures.” *Id.* at 5.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. §§ 5121–5207 (2024), sets forth this panel’s authority to conduct arbitrations. *Id.* § 5189a(d). FEMA is statutorily authorized to provide PA “essential to meeting immediate threats to life and property resulting from a major disaster.” *Id.* § 5170b(a). Eligibility for PA funding requires a showing that such work was “required as the result of the emergency or major disaster event.” 44 CFR 206.223(a)(1) (2022). FEMA’s Public Assistance Program and Policy Guide (PAPPG) (Apr. 2018) states that in order for an applicant’s costs to be eligible for PA, those costs must be “[d]irectly tied to the performance of eligible work” and

“[a]dequately documented.” *Id.* at 21. An applicant documenting such costs “should provide the ‘who, what, when, where, why, and how much’ for each item claimed.” *Id.* at 133.

FEMA policy provides that “[w]ork and associated costs to support the distribution and administration of COVID-19 vaccines may be eligible for PA.” Coronavirus (COVID-19) Pandemic: Medical Care Eligible for Public Assistance (Interim) (Version 3), FEMA Policy 104-21-0004 at 5. Eligible costs for making the public aware of COVID-19 vaccinations include the following:

Communications to disseminate public information regarding vaccinations including translation and interpretation services as necessary. This may also include work and costs associated with setting up and operating a call center or website, when reasonable and necessary, for the purpose of sharing vaccination information with the public and/or to support the implementation and management of COVID-19 vaccination plans.

Id. at 7 (footnote omitted). In other policy guidance, FEMA has “determined that PA is not the appropriate source of funding for COVID-19 contact tracing and there are other more appropriate sources of funding.” Coronavirus (COVID-19) Pandemic: Work Eligible for Public Assistance (Interim), FEMA Policy FP 104-009-19 at 6.

The panel concludes that CCSF’s invoiced subcontractor costs are not eligible for receipt of PA. It has been established that “[u]nder FEMA policy, the applicant is responsible for providing documentation demonstrating” specific eligible tasks. *Harris County, Texas*, CBCA 8559-FEMA, 26-1 BCA ¶ 38,967, at 189,694-95. “[G]eneral contract documents, position descriptions, and broad declarations, are not specific enough to allow one to determine whether a particular . . . employee was performing eligible or ineligible work during a given shift.” *Id.* at 189,695. CCSF has only demonstrated that it paid invoices for the costs of SFPHF’s subcontractors, but those costs were only the subcontractors’ totals of personnel and facilities expenses. Those cost totals did not identify the cost of eligible work performed by those employees.

CCSF argues that FEMA policy does not require “time sheets or activity logs for contractors. . . rather it only requires the contracts, change orders, and invoices to support the work performed.” Applicant’s Closing Brief at 2-3 (citing PAPPG at 139 (Table 10)). Such an argument ignores the fact that FEMA policy also requires an applicant to show the “‘who, what, when, where, why, and how much’ for each item claimed.” PAPPG at 133. CCSF’s evidence falls short of showing all of those elements of proof. CCSF also argues that FEMA improperly determined that some of SFPHF’s subcontractors engaged in contact tracing, which is not an eligible cost. Even if the panel were to accept CCSF’s contention

that none of SFPHF's subcontractors' costs are related to contact tracing, the panel still lacks sufficient evidence to determine that SFPHF's claimed subcontractors' costs were for eligible work. The fact remains that CCSF has acknowledged a lack of the necessary records of costs to show the actual time and expense incurred for eligible work, and the panel cannot simply assume that all of SFPHF's claimed costs were for eligible work. *See, Bowling Green-Warren County Community Hospital Corp.*, CBCA 8327-FEMA, 26-1 BCA ¶ 38,961, at 189,666 (2025).

Decision

CCSF is ineligible to receive its requested PA.

H. Chuck Kullberg

H. CHUCK KULLBERG

Board Judge

Erica S. Beardsley

ERICA S. BEARDSLEY

Board Judge

Allan H. Goodman

ALLAN H. GOODMAN

Board Judge