



June 23<sup>rd</sup>, 2020

Mr. Mark Ghilarducci, Director  
California Office of Emergency Services (OES)  
3650 Schriever Avenue  
Mather, CA 95655

Dear Director Ghilarducci:

On behalf of the members of the Disaster Recovery Coalition of America (DRCA), we are writing to call your attention to a provision in the recently released modified Invitation for Bid (IFB), entitled "Tree Removal Services for the Camp Fire in Butte County" DRR19067.

By way of introduction, DRCA ([www.thedrca.org](http://www.thedrca.org)) is the only national 501©6 non-profit, trade association of private sector emergency management leaders whose mission is to provide public officials with services to prepare for, respond to, recover from and mitigate against disasters and emergencies. DRCA works diligently to establish best practices across the emergency management spectrum and improve communities' abilities to recover from natural and man-made disasters.

The DRCA team reviews competitive solicitations across the country to ensure best practices and observance of FEMA guidance so that everything possible can be put in place for proper grant reimbursement. It is with this mission in mind that we are writing to request your review of the provision in IFB DRR 19067, on Page 23, which is reprinted here for your review:

**California Only Restriction**

For DRR19067 Tree Removal Services for the Camp Fire, a new restriction will be placed on Bidders. To be eligible for consideration, Bidders must be certified as a California-based entity. Bidders must complete Attachment G: California Only Restriction form thoroughly, from Sections 1 through 4, or Bidders will be deemed ineligible for consideration for DRR19067. Attachment G must be submitted along with the bid package by the deadline set in Section 1 Overview Process Schedule.

(1) A business or corporation whose principal office is located in California, and the owners, or officers if the entity is a corporation, are domiciled in California; **or**

(2) A business or corporation that has a major office or manufacturing facility located in California and that has been licensed by the state on a continuous basis to conduct business within the state and has continuously employed California residents for work within the state during the three years prior to submitting a bid or proposal for a state contract."

Based on our considerable experience, it appears the above provision is out of compliance with Title 44 Code of Federal Regulations (C.F.R.) §§ 13.36(b)(1) which prohibits in-State or local geographical preferences (please see attached 3 page FEMA federal grant brief where (b)(1) appears).

In addition, FEMA has a long list of deobligation decisions that can be found quickly in FEMA's Public Assistance Appeals Database where, if searching the debris removal category, you will see where FEMA leadership has denied appeals based on FEMA's longstanding requirement "...that all procurement transactions are conducted in a manner providing full and open competition." Please see as an example a 2019 deobligation decision at <https://www.fema.gov/appeal/348339> where FEMA "clawed back" over \$1.2 million in costs associated with contracts that were improperly procured.

Please note DRCA will not be an active bidder for this competitive solicitation but will be following its progress closely to see if there is any way we can contribute to the success of the project. That said, we would like to schedule some time on your calendar to discuss whether CalOES would consider amending the IFB to remove this provision prior to the June 24<sup>th</sup>, 2020 response due date.

Thank you in advance for your consideration and we will call your office to see if we can schedule a time on your calendar for a virtual meeting.

Kind Regards,

  
Casey Long  
Managing Director  
DRCA

675 North Washington Street, Suite 400  
Alexandria, VA 22314

Cc: Mr. Robert J. Fenton, Jr., Regional Administrator FEMA Region IX  
Mr. Luke Wainscott, Contract Administrator, CalRecycle