

Coronavirus (COVID-19) Update
Summary of the FEMA Public Assistance Reimbursement Process for Cities

On March 13, 2020, the President issued a nationwide emergency declaration regarding the Coronavirus (COVID-19) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the “Stafford Act”).

Local governmental entities in Texas, including municipalities, may apply for reimbursement of expenses for certain emergency measures taken in response to the COVID-19 health emergency. Public Assistance reimbursement claims can be made to the Federal Emergency Management Agency (“FEMA”) in accordance with Section 502 of the Stafford Act. If a reimbursement is granted, FEMA will cover 75% of eligible expenses, and a city will be responsible for the remaining 25%.

Although FEMA Public Assistance reimbursements are traditionally sought in the context of natural disasters such as hurricanes or floods that cause physical damage, the COVID-19 pandemic may create other forms of potentially reimbursable expenses for your city. For example, cities may be able to obtain reimbursements for expenses caused by COVID-19 for increased labor costs, use of city vehicles or equipment, purchase of supplies, emergency operations center expenses, disinfection/sterilization of public facilities, use of specialized medical equipment, or other costs.

Since the disaster is ongoing, the deadline to submit a Public Assistance reimbursement application has not been established yet. The eventual deadline will be the 30th day after the disaster declaration is over. Cities can claim expenses incurred during the time period from January 20, 2020 (the recognized start date of the event) until 30 days after the end of the disaster declaration.

I. How to Make a FEMA Public Assistance (“PA”) Reimbursement Claim

FEMA has announced a simplified [Public Assistance Application Process](#) to address the large magnitude of anticipated Public Assistance claims from public entities across the country related to COVID-19. A summary of the steps involved in a COVID-19 reimbursement claim is described below.



Step 1 - Attend a Virtual Applicant Briefing on the PA Reimbursement Process

The briefing includes a guide on use of the FEMA Grants Portal and the process of submitting a Request for Public Assistance form and supporting documentation. [Applicant briefings](#) occur each weekday from 1-2 p.m. CST, until further notice.

Step 2 – Log in to FEMA Grants Portal Account

If you already have an existing FEMA Grants Portal (<https://grantee.fema.gov/>) account from a prior disaster, you can log in there and submit a Request for Public Assistance (“RPA”) for COVID-19. The FEMA designation for the COVID-19 event is **DR-4485**.

If you do not have an account in the FEMA Grants Portal you can request one by sending an email to the Texas Department of Emergency Management (“TDEM”) at TDEMRecovery.RPA@tdem.texas.gov. Your email should provide the name of your city and the name phone number, and email address of your preferred primary contact person. You will then receive an automated email invitation from the FEMA Grants Portal. After your account opens, you can submit an RPA for COVID-19 (**DR-4485**).

The FEMA Grants Portal will be used to submit your RPA and supporting documents. The Grants Portal webpage looks like this:

Sign in to Your Account

USERNAME [Forgot your username?](#)

PASSWORD [Forgot your password?](#)

SIGN IN

[+ Register Your Organization and Request Public Assistance](#)

Step 3 – Submit a Request for Public Assistance (RPA) Form

After you log in to your FEMA Grants Portal account, you can complete and submit an [RPA \(FEMA Form 90-49\)](#) for COVID-19 (**DR-4485**). The RPA form itself is not lengthy and gathers basic information regarding an applicant. The details of your PA claim and supporting documentation can be submitted after your RPA, but it is recommended that cities begin organizing and submitting claim materials as soon as reasonably possible.

Additional guidance on the process of setting up your Grants Portal Account and submitting an RPA can be found on the [TDEM COVID-19 webpage](#).

To stay abreast of updates or changes to the PA reimbursement process for COVID-19, please continuously refer to guidance issued by [FEMA](#) and TDEM.

Step 4 – Submit Project Worksheets (“PW”)

A Project Worksheet is the form used to document the details of an applicant’s project and costs claimed. Supporting documentation, which is essential to track and justify expenses, is uploaded to FEMA along with Project Worksheets. If your city has already paid for eligible expenses, a [Project Worksheet \(FEMA Form 90-91\)](#) can be submitted for reimbursement now.

Following submission of an RPA and PW, FEMA will review the materials submitted. If reimbursements are approved, an applicant will need to sign formal grant documents to receive funding.

Disaster Summary Outline (“DSO”)

As soon as possible, cities should also begin totaling existing response costs and preparing initial damage estimates. These figures need not be exact, but they are necessary to complete a [DSO](#), which is the first snapshot TDEM receives regarding the extent of costs incurred. It is important to provide this information to TDEM because it will be used by the State of Texas to determine the amount of funds that will be requested from the federal government.

II. What Costs are Potentially Reimbursable?

FEMA has stated that the nature and scale of COVID-19 is beyond any prior Public Assistance event, and that expenses could be reviewed on a case-by-case basis to determine if they are appropriate for reimbursement. For COVID-19, it is possible that the expenses eligible for reimbursement could be expanded, and that some reimbursement prohibitions could be temporarily suspended. Cities are strongly encouraged to track and document all costs related to COVID-19 that can be clearly differentiated from your normal operating expenses, because they may later be recognized as reimbursable.

[FEMA’s Public Assistance Program and Policy Guide \(“PAPPG”\)](#) contains the most comprehensive overview of the Public Assistance Program and details the overall categories of emergency measures eligible for reimbursement.

As part of initial guidance, [FEMA has issued a list of eligible emergency protective measures](#) related specifically to COVID-19. However, FEMA has stated that it is a preliminary, non-exhaustive list.

Emergency Work and Permanent Work

FEMA provides grant funding for disaster response work in two categories: (1) Emergency Work and (2) Permanent Work. Emergency Work¹ includes Labor Costs, Equipment Costs, Supplies, recognized Emergency Protective Measures, and other work done immediately to save lives, protect improved property, protect health and safety, or lessen the threat of a major disaster. Permanent Work² generally refers to permanent restoration of physically damaged facilities (such as wind damage or flood damage). At this time, it is anticipated that reimbursement of most

¹ PAPPG at 159.

² Permanent Work is defined by FEMA as “[r]estorative work that must be performed through repairs or replacement to restore an eligible facility on the basis of its pre-disaster design and current applicable codes and standards.” PAPPG at 162.

expenses responsive to COVID-19 would be sought under the category of Emergency Work/Emergency Protective Measures.

Emergency Protective Measures are a subcategory of Emergency Work, and are defined as expenses incurred before, during, and after an incident that:

- Eliminate or lessen immediate threats to lives, public health, or safety; or
- Eliminate or lessen immediate threats of significant additional damage to improved public or private property in a cost-effective manner.³

Categories of Reimbursable Emergency Work

FEMA's PAPPG lists the following as recognized categories of Emergency Work. To determine if a city's specific expenses are reimbursable, you should review FEMA guidance and consult with your legal counsel.

1. Labor Costs (Force Account Labor). FEMA refers to an applicant's personnel as "Force Account Labor."
 - Includes reimbursement of some hourly rates plus actual fringe benefits.⁴
 - FEMA's PAPPG lists eligible fringe benefits.⁵
 - Typically, only overtime work (not straight-time work) is reimbursable for permanent, budgeted employees performing Emergency Work.⁶
 - For unbudgeted employees performing Emergency Work, both straight-time and overtime work are eligible.
 - Extraordinary costs (such as hazardous-duty pay, call-back pay, night-time and weekend differential pay) may be reimbursable for essential employees who are called back to duty during administrative leave to perform Emergency Work.⁷ This may include both straight-time work and overtime.
 - Reassigned employee pay for employees called upon to perform work that is not part of their regular job duties is reimbursable at their normal pay rates, even when performing work normally paid at lower rates.⁸
 - Backfill employee pay for employees who temporarily replace other employees who are responding to an incident is eligible for reimbursement even if the backfilling employees are not performing Emergency Work, as long as the employees they are replacing are performing Emergency Work.⁹
 - Overtime pay for Supervisors can be reimbursable.¹⁰
 - Stand-By Time can be reimbursable if incurred in good faith in preparation for and directly related to actions necessary to save lives and protect public health and safety, even if the employee on standby was not ultimately used.¹¹

³ 44 C.F.R. § 206.225(a)(3); PAPPG at 19 and 57.

⁴ FEMA calculates fringe benefit costs based on a percentage of the employee's hourly pay rate. PAPPG at 23.

⁵ PAPPG at 23.

⁶ Stafford Act § 403(d)(1)(B), 42 U.S.C. § 5170b, and 44 C.F.R. § 206.228(a)(2)(iii).

⁷ PAPPG at 24.

⁸ PAPPG at 24.

⁹ PAPPG at 25.

¹⁰ PAPPG at 25.

¹¹ PAPPG at 25.

2. Equipment and Purchased Equipment Costs (Force Account Equipment) – an applicant’s own equipment that is used to respond to an event (based on hourly rates) or equipment purchased. FEMA provides funding of the purchase price and either:
 - The use of equipment based on equipment rates (without ownership or depreciation components); or
 - The actual fuel and maintenance costs.
 - FEMA [publishes](#) equipment rates applicable on a national basis.
3. Leased Equipment.
 - Equipment lease costs are eligible if (i) the applicant performed an analysis of the cost of leasing versus purchasing the equipment¹² and (ii) the total lease costs don’t exceed the cost of purchasing and maintaining equipment during the life span of the event.
4. Supplies.
 - If the supplies are purchased or justifiably needed to effectively respond to and/or recover from the incident; or
 - If taken from the applicant’s stock and used for the incident. A city should document items taken from stock with withdrawal and usage records.
5. Project Management and Design Services.
 - Some project management activities (typically related to construction work) are reimbursable, such as services related to procurement, document review, and construction oversight; and
 - Engineering and design services are eligible if necessary to complete eligible work.
6. Section 324 Management Costs¹³, including indirect costs, administrative expenses, or other expenses incurred in administering and managing a PA award that are not chargeable to a specific project.
 - Examples could potentially include, but are not limited to, the following costs to:
 - a. Conduct preliminary damage assessments;
 - b. Conduct meetings regarding the PA Program or overall damage claims;
 - c. Organize damage sites into logical groups;
 - d. For travel; or to
 - e. Prepare correspondence.
7. Direct Administrative Costs (DACs) are costs that are tracked, charged, and accounted for directly for a specific project.
 - Examples of DAC could potentially include, but are not limited to, the following costs:
 - a. Collecting, copying, filing, or submitting documents to support a PA claim;

¹² 2 C.F.R. § 200.318(d).

¹³ Stafford Act § 324(a), 42 U.S.C. § 516(b); 44 C.F.R. § 207.2; and 2 C.F.R. §§ 200.56 and 200.412; PAPPG at 37.

- b. Requesting disbursement of PA funds;
 - c. Legal or consultant expenses related to the preparation or submission of a PA claim;
 - d. Preparing a Project Worksheet (PW);
 - e. Preparing correspondence;
 - f. Travel expenses;
 - g. Site inspections;
 - h. Development of a detailed site-specific damage description;
 - i. Evaluation of Section 406 hazard mitigation measures;
 - j. Preparing Small Projects¹⁴.
- FEMA considers the following factors when determining the reasonableness of DAC:
 - a. Whether the type of employee and skill level is appropriate for the activities performed; and
 - b. The level of effort required to perform an activity.
8. Surveys to assess or locate damage.
9. Certain emergency work, such as debris removal, preventing damage to property, removal of hazardous materials or privately owned vehicles, disposal of same, staging sites.
10. Other **Emergency Protective Measures**, such as the following:
- a. Transporting and pre-positioning equipment and other resources for response;
 - b. Flood fighting;
 - c. Emergency Operation Center¹⁵ (“EOC”) related costs;
 - d. Emergency access;
 - e. Supplies and commodities;
 - f. Medical care and transport;
 - g. Evacuation and sheltering, including that provided by another state or tribal government;
 - h. Child care;
 - i. Safety inspections;¹⁶
 - j. Search and rescue to locate survivors, household pets, and service animals requiring assistance;
 - k. Animal carcass removal;
 - l. Security and law enforcement expenses (including, but not limited to, things such as barricades, fencing, etc.);
 - m. Demolition of structures;
 - n. Use or lease of temporary generators for facilities that provide essential community services;

¹⁴ An applicant can prepare its own Small Projects, defined at PAPPG 164.

¹⁵ FEMA defines an [Emergency Operations Center](#) as “the physical location at which the coordination of information and resources to support incident management (on-scene operations) activities normally takes place. An EOC may be a temporary facility or may be located in a more central or permanently established facility, perhaps at a higher level of organization within a jurisdiction. EOCs may be organized by major functional disciplines (e.g., fire, law enforcement, medical services), by jurisdiction (e.g., Federal, State, regional, tribal, city, county), or by some combination thereof.”

¹⁶ Safety inspection expenses are reimbursable if incurred to establish whether a building is safe for entry, occupancy, and lawful use, as well as posting appropriate placards. Expenses to determine general building damage are not reimbursable.

- o. Firefighting;
- p. Dissemination of information to the public to provide warnings and guidance about health and safety hazards using various strategies, such as flyers, public service announcements, or newspaper campaigns;
- q. Mass mortuaries/morgues;
- r. Emergency communications services and public transport;
- s. Meals for emergency workers and volunteers;
- t. Expenses related to operating a facility or providing an emergency service;
- u. Mosquito abatement;
- v. Repair of residential electrical meters;
- w. Temporary relocation of essential services, including safe rooms for schools.

FEMA guidance provides that all costs for Emergency Protective Measures must be¹⁷:

- Directly tied to the performance of eligible work;
- Adequately documented¹⁸;
- Reduced by all applicable credits (such as insurance proceeds)¹⁹;
- Authorized and not prohibited under law;
- Consistent with an applicant's internal policies and procedures; and
- Necessary and reasonable to accomplish the work properly²⁰.

FEMA determines reasonableness of costs²¹ based on:

- Whether the cost is of a type recognized as ordinary and necessary for the type of facility or work²²;
- The cost is comparable to the current market price²³;
- Whether shortages or other complexities escalated the costs;
- Exigent circumstances;
- Whether the applicant participated in ethical business practices, ensuring parties to a transaction are independent of each other, without familial ties or shared interests, and on equal footing²⁴;
- The applicant complied with procurement requirements.

III. Limitations on Public Assistance Program Reimbursements

1. Cities Need Existing Internal Policies to Obtain Reimbursements for Disaster Related Overtime Pay, Premium Pay.

To become potentially eligible for reimbursement of costs for eligible overtime pay, premium pay, and compensatory time, existing FEMA guidance states that public entities must

¹⁷ PAPPG at 21-22.

¹⁸ 2 C.F.R. § 200.403(g).

¹⁹ Stafford Act § 312, 42 U.S.C. § 5155, and 2 C.F.R. § 200.406.

²⁰ 2 C.F.R. § 200.403.

²¹ PAPPG at 22.

²² 2 C.F.R. § 200.404(a).

²³ 2 C.F.R. § 200.404(c).

²⁴ 2 C.F.R. § 200.404(b).

have adopted internal policies accounting for disaster-related premium pay or overtime pay before an emergency declaration. The existing policies are also required to provide for the following:

- Policy cannot include a contingency clause that payment is subject to federal funding;
- Policy must apply uniformly, regardless of a Presidential declaration; and
- Policy must set non-discretionary criteria for when the applicant activates various pay types.

Based on FEMA's current guidance, if a city has not adopted such a policy, it would not be eligible for reimbursement of those costs. However, given the unprecedented nature of the COVID-19 health emergency and the fact that some employees performing essential governmental services may request hazardous duty pay or other premium rate pay, this requirement may be subject to change. As such, if a city anticipates a need to provide premium pay or overtime pay, it is recommended that cities review, and if necessary, amend their policies in order to comply with the criteria listed above as soon as possible.

2. No Duplication of Benefits

FEMA is legally prohibited from duplicating benefits from other sources. If an applicant receives funding from another source for the same work that FEMA funded, FEMA reduces the eligible cost or de-obligates funding to prevent a duplication of benefits.

3. Insurance Proceeds and Insurance Claim Exhaustion Requirements

FEMA cannot provide PA funding that duplicates insurance proceeds. Consequently, FEMA reduces eligible costs by the amount of:

- Actual insurance proceeds, if known; or
- Anticipated insurance proceeds, based on the applicant's insurance policy, if the amount of actual insurance proceeds is unknown. FEMA subsequently adjusts the eligible costs based on the actual amount of insurance proceeds the applicant receives.

FEMA also requires the applicant to take reasonable efforts to pursue claims to recover insurance proceeds that it is entitled to receive from its insurer(s). If the applicant expends costs to pursue its insurance claim, FEMA offsets the insurance reduction with the applicant's reasonable costs to pursue the claim.

IV. What Documentation is Necessary to Substantiate a Public Assistance Claim?

FEMA recommends that cities document everything on which they spend time or funds related to COVID-19. FEMA has provided the following list of required documentation, which corresponds to the type of expenses incurred.

Labor Expenses – Documentation Required

- Proof of hourly or pay-period rate
- Fringe benefit rate calculations
- Timesheets

- Proof of payment
- Overtime and comp time policies
- Equipment logs identifying operator
- Operator timesheets
- Proof of equipment ownership
- Equipment rate calculations
- Work performed

Materials – Documentation Required

- Purchasing procedure policy
- Replenishment of inventory items
- List of materials used with pricing
- Invoices & Purchase Orders
- Proof of payment
- Where used
- Date used

Rental Equipment – Documentation Required

- Rental/Lease agreement
- Invoices
- Purchase Orders
- Proof of Payment
- Equipment use logs

Contracts for COVID-19 Related Responsive Efforts – Documentation Required

- Contract procurement policy
- Bid process
- Contracts
- Invoices/Purchase Orders
- Proof of payment
- Benefit Cost Analysis
- Change Orders
- Profit Negotiation
- 2 C.F.R. § 200.318 contract requirements
- Debarment verification

V. Practical Tips for Making Public Assistance Claims

- Designate a COVID-19 response team to help organize your city’s Public Assistance claim. Consider including personnel from your business office and human resources department.
- Evaluate current expenses to determine if they are reimbursable, and start documenting all expenses in detail as soon as possible.
- Use [FEMA’s Model Daily Activity Log](#) to track labor costs, out-of-pocket expenses, and equipment usage. This form serves as a model; it is not necessary to use this exact document. It may be helpful to individualize this form to correspond to the types of expenses being incurred by your city.

- Take photographs of COVID-19 related expenses, where possible. For example, supplement claim documents with photos of supplies purchased, facilities disinfected, vehicles or equipment used, or disaster response centers that were utilized.
- Specifically explain and document why expenses are caused by COVID-19 to differentiate them from regular operating expenses (which are not reimbursable).
- Build familiarity with FEMA’s claim process and documentation standards by reporting and uploading Project Worksheets and proof of expenses as they are incurred. Don’t report all expenses at one time.
- Clearly explain the reasoning for any expenses whose prices are higher than normal during this period of high demand and all efforts made to obtain competitive pricing.

VI. Links and Resources from FEMA and TDEM

- [FEMA Coronavirus \(“COVID-19”\) Pandemic: Public Assistance Simplified Application](#)
- [FEMA Public Assistance Program and Policy Guide \(PAPPG\)](#)
- [FEMA PA Application Simplification – Talking Points](#)
- [FEMA Public Assistance Process Explained](#)
- PA Grants Portal (<https://grantee.fema.gov/>)
- [Coronavirus \(COVID-19\) Response](#)
- [Texas Department of Emergency Management \(TDEM\) COVID-19 Webpage](#)
- [FEMA Grants Portal Grants Manager Channel](#)
- [A FEMA Independent Study Course is available to Applicants on Grants Portal \(GP\)](#)

If you have questions regarding the foregoing, please contact:

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The information provided in this document derives largely from FEMA-published materials, and is intended to summarize that guidance. It does not constitute legal advice and is provided for general informational purposes only. This summary is not intended to serve as a substitute for a full and comprehensive review of FEMA guidance and all applicable law. Cities should consult with their attorney to obtain specific advice with regard to making a Public Assistance claim for reimbursement.