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BEST PRACTICE

Mutual Aid Agreements: Reimbursement and FEMA

PURPOSE

This Best Practice provides guidance on dealing with the costs associated with mutual aid.

SUMMARY

The costs of lending mutual aid can be considerable given the size and scope of a potential terrorist attack. Few emergency responders would refuse to assist others during an emergency, but high costs can lead to disputes over reimbursement following an incident. Mutual aid agreements should address these concerns in a clear manner agreed to by all parties.

DESCRIPTION

As the cost of lending mutual aid support has increased in modern times, communities have sought to have agreement on these issues prior to an actual emergency. Mutual aid agreements serve as the foundation for navigating cost issues and should address the issue comprehensively. Fewer problems over reimbursement will arise post-incident when personnel and material costs issues are dealt with effectively in the mutual aid agreement.

Reimbursement

Conditional Reimbursement

Day to day mutual aid should be free of charge. The administrative requirements of reimbursement make it unfeasible to charge for every day mutual aid.

In larger incidents that will lead to overtime, backfill, and other additional costs, reimbursement is often desirable. Sending aid and hoping for reimbursement from state or federal sources, however, will lead to administrative problems and will not necessarily guarantee reimbursement. Mutual aid agreements should mandate that responses to incidents of a certain size include provisions for reimbursement:

- **Schedule Reimbursement.** Many mutual aid agreements make assistance free of charge up to a certain length of response. For example, mutual aid is free of charge for the first four hours of response; anything after that is billed to the requesting party.
- **Declaration of Disaster.** Although reimbursement cannot be conditioned on the declaration of *federal* disaster (See discussion of Federal Emergency Management Agency (FEMA) rules below), it can be conditioned on the declaration of a *local* or *state* disaster. This common approach enables reimbursement for large-scale incidents.

It is important to note the administrative and legal requirements associated with charging for assistance. All personnel and material costs should be recorded on an invoice and billed to the requesting party in a clear, written format. The agreement should set forth regulations, timelines, and protocols guiding actual payment and associated processes. When charges are applied, other stakeholders must be brought into the process, including attorneys, local finance directors, and elected officials.

Exceptions

There are exceptions to conditional reimbursement. In some states, statewide mutual aid precepts make aid free of charge in all mutual aid situations. Jurisdictions should follow state guidelines in cases such as this where state law mandates a particular protocol.

If reimbursement is not required in an agreement, provisions for billing overtime pay might be necessary. For example, in a terrorist-generated incident, units responding to an automatic/interlocal agreement might desire reimbursement for overtime. The agreement should include information on cost issues for special situations such as this.

Gifts

Agreements should allow for gifts, or donations, whereby aid is given free of charge. This special designation allows jurisdictions to bypass automatic reimbursement and simply provide aid free of charge, without obligation to charge the requesting jurisdiction. In some states, aid is free of charge whenever an invoice is not received within a month or two after the incident.

FEMA

FEMA will reimburse jurisdictions and agencies providing mutual aid under specific circumstances set forth by law. Guidelines for reimbursement are provided by FEMA in the Stafford Act, Title 44 of the Code of Federal Regulations, and in other public laws and regulations.

Current FEMA policies make the formalization of mutual aid even more important: The costs incurred by an assisting party are eligible for reimbursement only if there was an expectation of payment from the requesting party—evidenced by a mutual aid agreement executed prior to the date of a disaster. In the absence of a signed agreement, FEMA will treat the assistance provided by a neighboring jurisdiction as a charitable donation, not as a cost eligible for assistance.

Accordingly, FEMA 9523.6 - *Mutual Aid Agreements for Public Assistance* (http://www.fema.gov/rrr/pa/9523_6.shtm) and FEMA 322 – *Public Assistance Guide* (<http://www.fema.gov/pdf/rrr/pa/pagprnt.pdf>) provide guidelines for mutual aid agreements such that they will render lending jurisdictions eligible for reimbursement for costs associated with mutual aid support. FEMA will reimburse mutual aid agreement costs provided all of the following conditions are met:

1. The assistance requested by the applicant is directly related to the disaster.
2. The mutual aid agreement must be in written form and signed by authorized officials of both parties.
3. The mutual aid agreement applies uniformly in emergency situations. The agreement **must not be contingent upon a declaration of a major**

disaster or emergency by the Federal government or on receiving Federal funds.

4. The providing entity may not request or receive grant funds directly. Only the eligible applicant receiving the aid may request grant assistance.
5. The request for services as well as services received and costs incurred must be documented and furnished to FEMA upon request.
6. FEMA will recognize only mutual aid agreements between governments or agencies in separate areas. FEMA will not recognize mutual aid agreements between agencies, departments or entities of the same town, county or State government.

FEMA 9523.6 reiterates: There are no provisions for reimbursement for mutual aid when there is no formal written agreement. There are additional restrictions, requirements, and policies put forth by FEMA on reimbursement and mutual aid agreements; for further information please see:

- FEMA 9523.6 – *Mutual Aid Agreements for Public Assistance* (http://www.fema.gov/rrr/pa/9523_6.shtm)
- FEMA 322 – *Public Assistance Guide* (<http://www.fema.gov/pdf/rrr/pa/pagprnt.pdf>)
- 44 CFR 206 – *Federal Disaster Assistance for Disasters Declared on or after November 23, 1988* (http://frwebgate6.access.gpo.gov/cgi-bin/waisgate.cgi?WAI_SdocID=585666207865+1+0+0&WAI_Saction=retrieve)
- U.S.C. Title 42, Chapter 68 – *Robert T. Stafford Disaster Relief and Emergency Assistance Act* (<http://www.fema.gov/library/stafact.shtm>)
- FEMA's schedule of equipment rates ([http://www.mtas.utk.edu/knowledgebase.nsf/380c7d02a46a19cf852569ca007327c8/06afe234c66b7ef385256aff004db6b9/\\$FILE/FEMA%20Equipment%20Rate%20Schedule.pdf](http://www.mtas.utk.edu/knowledgebase.nsf/380c7d02a46a19cf852569ca007327c8/06afe234c66b7ef385256aff004db6b9/$FILE/FEMA%20Equipment%20Rate%20Schedule.pdf))

The Municipal Tennessee Advisory Service (<http://www.mtas.utk.edu>) provides a number of documents discussing reimbursement:

- Mutual Aid Updates:

[http://www.mtas.utk.edu/knowledgebase.nsf/380c7d02a46a19cf852569ca007327c8/06afe234c66b7ef385256aff004db6b9/\\$FILE/Mutual%20Aid%20Update.pdf](http://www.mtas.utk.edu/knowledgebase.nsf/380c7d02a46a19cf852569ca007327c8/06afe234c66b7ef385256aff004db6b9/$FILE/Mutual%20Aid%20Update.pdf)

<http://www.mtas.utk.edu/knowledgebase.nsf/380c7d02a46a19cf852569ca007327c8/977de4547546b8d885256c860059617b?OpenDocument>

[http://www.mtas.utk.edu/knowledgebase.nsf/380c7d02a46a19cf852569ca007327c8/c105301ad3a76b3c85256c79004eec9a/\\$FILE/Mutual%20Aid%20and%20Emergency%20Assistance%202002%20Update.pdf](http://www.mtas.utk.edu/knowledgebase.nsf/380c7d02a46a19cf852569ca007327c8/c105301ad3a76b3c85256c79004eec9a/$FILE/Mutual%20Aid%20and%20Emergency%20Assistance%202002%20Update.pdf)

- Tennessee Model Interlocal Mutual Aid Agreement:

[http://www.mtas.utk.edu/knowledgebase.nsf/380c7d02a46a19cf852569ca007327c8/c105301ad3a76b3c85256c79004eec9a/\\$FILE/Interlocal%20Mutual%20Aid%20Agreement.pdf](http://www.mtas.utk.edu/knowledgebase.nsf/380c7d02a46a19cf852569ca007327c8/c105301ad3a76b3c85256c79004eec9a/$FILE/Interlocal%20Mutual%20Aid%20Agreement.pdf)

[20Aid%20Agreement%20for%20Fire,%20Rescue,%20and%20EMS%20Services.pdf](#)

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