

FEMA may disallow all or part of the costs by adjusting eligible funding to an amount it determines to be reasonable.

## **A. Applicant (Force Account) Labor**

FEMA refers to the Applicant's personnel as "force account." FEMA reimburses force account labor based on actual hourly rates plus the cost of the employee's actual fringe benefits. FEMA calculates the fringe benefit cost based on a percentage of the hourly pay rate. Because certain items in a benefit package are not dependent on hours worked (e.g., health insurance), the percentage for overtime is usually different than the percentage for straight-time. Fringe benefits may include:

- Holiday leave
- Accrued vacation leave
- Sick leave
- Social security matching
- Medicare matching
- Unemployment insurance
- Workers compensation
- Retirement
- Health insurance
- Life and disability insurance
- Administrative leave

### **1. Labor Policies**

FEMA determines the eligibility of overtime, premium pay, and compensatory time costs based on the Applicant's pre-disaster written labor policy, provided the policy:

- Does not include a contingency clause that payment is subject to Federal funding;
- Is applied uniformly regardless of a Presidential declaration; and
- Has set non-discretionary criteria for when the Applicant activates various pay types.

If these requirements are not met, FEMA limits PA funding to the Applicant's non-discretionary, uniformly applied pay rates.

All costs must be reasonable and equitable for the type of work being performed.

FEMA will determine whether the number of hours claimed are reasonable and necessary by evaluating:

- The severity of the incident;
- Whether the work was performed at a time when it was necessary to work extraordinary hours based on the circumstances of the incident;
- The function of the employee for which the hours are claimed; and
- The number of consecutive hours the employee worked.

### **2. Eligibility Criteria Based on Type of Employee and Work Performed**

FEMA's criteria for reimbursing straight-time labor costs differ depending on the type of employee and whether that employee is performing Emergency Work or Permanent Work.

For Permanent Work, both straight-time and overtime labor costs are eligible for both budgeted and unbudgeted employees.<sup>86</sup> For Emergency Work, only overtime labor is eligible for budgeted employees.<sup>87</sup> For unbudgeted employees performing Emergency Work, both straight-time and overtime labor are eligible. Figure 11 indicates different types of budgeted and unbudgeted employees.

**Regular Time for Debris Removal Projects**

- Alternative Procedures: Eligible
- Standard Program: Ineligible

Under the alternative procedures authorized by Section 428 of the Stafford Act, if the Applicant opts to participate in the straight-time procedure for debris removal, straight-time labor costs are eligible for budgeted employees conducting eligible debris removal (Category A) activities. See [Chapter 2:VI.A.1\(b\)](#) for further information.

Emergency Work Labor Eligibility		
Budgeted Employees	Overtime	Straight-Time
Permanent employee	☑	
Seasonal employee working during normal season of employment	☑	
Unbudgeted Employees	Overtime	Straight-Time
Essential employee called back from administrative leave	☑	☑
Permanent employee funded from external source	☑	☑
Temporary employee hired to perform eligible work	☑	☑
Seasonal employee working outside normal season of employment	☑	☑

**Figure 11. Emergency Work Labor Eligibility**

Reassigned Employees

The Applicant may assign an employee to perform work that is not part of the employee’s normal job. For example, a police officer may clear debris. FEMA provides PA funding based on the reassigned employee’s normal pay rate, not the pay level appropriate to the work, because the Applicant’s incurred cost is the employee’s normal pay rate.

Straight-time of a permanent employee funded from an external source (such as a grant from a Federal agency or statutorily dedicated funds) is eligible if the employee is reassigned to perform eligible Emergency Work that the external source does not fund. FEMA must confirm that no duplication of funding exists prior to approval.

Backfill Employees

The Applicant may need to temporarily replace an employee who is responding to the incident. Overtime costs for the backfill employee are eligible even if the backfill employee is not performing eligible work as long as the employee that he/she is replacing is performing eligible Emergency Work.

<sup>86</sup> Stafford Act § 406(a)(2)(C), 42 U.S.C. § 5172, and 44 CFR § 206.228(a)(2)(i).

<sup>87</sup> Stafford Act § 403(d)(1)(B), 42 U.S.C. § 5170b, and 44 CFR § 206.228(a)(2)(iii).

FEMA also provides PA funding for straight-time if the backfill employee is a:

- Contracted or temporary employee; or
- Permanent employee called in on a normally scheduled day off (weekend or other off day).

If the backfill employee is called in from scheduled leave, only overtime is eligible.

### Supervisors

Second-level supervisors and above (e.g., commissioners, mayors, department directors, police and fire chiefs) are usually exempt employees<sup>88</sup> and are not directly involved in the performance of a specific project. Therefore, they are not eligible for overtime, unless the Applicant:

- Demonstrates that the employee was directly involved with a specific project;
- Normally charges that individual's time to specific projects regardless of Federal funding; and
- Incurs overtime costs for the employee in accordance with a labor policy that meets the criteria in [Chapter 2:V.A.1.](#)

### Other

Extraordinary costs (such as call-back pay, night-time and weekend differential pay, and hazardous duty pay) for essential employees who are called back to duty during administrative leave to perform eligible Emergency Work are eligible if costs are paid in accordance with a labor policy that meets the criteria above.

Administrative leave or similar labor costs incurred for employees sent home or told not to report due to emergency conditions are not eligible.

### Stand-by Time

Subject to the provisions of labor cost eligibility criteria, FEMA also provides PA funding for costs related to stand-by time incurred in preparation for and directly related to actions necessary to save lives and protect public health and safety. To be eligible, stand-by time must be reasonable, necessary, and consistent with the Applicant's practice in non-federally declared incidents. Examples of when FEMA may reimburse costs for stand-by time include, but are not limited to:

- When bus drivers are prudently deployed to transport evacuees, even if the bus is not ultimately used for evacuations
- When first responders are prudently deployed for the purpose of evacuating or providing emergency medical care to survivors in order to save lives or protect health and safety, even if the employee does not ultimately perform eligible Emergency Work
- When a contract or union agreement requires payment for stand-by time

FEMA will determine whether any stand-by time claimed is reasonable and necessary based on whether:

- There is a contractual obligation to pay for stand-by time based on a labor agreement

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<sup>88</sup> These employees are exempt from the overtime pay requirements set forth in the Fair Labor Standards Act.

- The stand-by time occurred when it was necessary to have resources available to save lives and protect health and safety

For instance, the Applicant may be required to pay firefighter costs from portal-to-portal, which may result in paying for 24-hour shifts with periods of rest. FEMA will reimburse costs based on such requirements. However, FEMA limits its reimbursement to that which is reasonable and necessary, not to exceed 14 calendar days from the start of the incident period.

## **B. Applicant (Force Account) Equipment and Purchased Equipment**

FEMA provides PA funding for the use of Applicant-owned equipment (force account equipment), including permanently mounted generators, based on hourly rates.<sup>89</sup> FEMA may provide PA funding based on mileage for vehicles, if the mileage is documented and is less costly than hourly rates.

There are instances when an Applicant does not have sufficient equipment to effectively respond to an incident. If the Applicant purchases equipment that it justifiably needs to respond effectively to the incident, FEMA provides PA funding for both the purchase price and either:

- The use of the equipment based on equipment rates (without the ownership and depreciation components); or
- The actual fuel and maintenance costs.

FEMA only applies equipment rates to the time the Applicant is actually operating equipment. Although costs associated with mobilizing equipment to a project site are eligible, costs for standby time (time spent on hold or in reserve) are not eligible unless the equipment operator uses the equipment intermittently for more than half of the working hours for a given day. In this case the intermittent standby time is eligible.

Executive Order (EO) 13688, Federal Support for Local Law Enforcement Equipment Acquisition, requires Federal agencies to ensure careful coordination and oversight of providing military and military-styled equipment, firearms, and tactical vehicles, including property covered under 22 CFR Part 121, The United States Munitions List, and 15 CFR Part 774, The Commerce Control List, (collectively “controlled equipment”), to State, Territorial, Tribal, and local law enforcement agencies. FEMA must comply with this EO when providing PA funding for purchase of this type of equipment.<sup>90</sup> The PA Division at FEMA Headquarters provides specific guidance when an Applicant seeks PA funding for law enforcement equipment.<sup>91</sup>

FEMA provides PA funding for force account equipment usage based on FEMA, State, Territorial, Tribal, or local equipment rates in accordance with the specific criteria noted below.

### FEMA Rates

FEMA publishes equipment rates applicable on a national basis.<sup>92</sup> FEMA’s rate schedule includes any item powered by fuel or attached to any item powered by fuel. FEMA develops equipment rates based on all costs associated with ownership and operation of equipment, with

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<sup>89</sup> 44 CFR § 206.228(a)(1).

<sup>90</sup> Executive Order (EO) 13688, 80 *Fed. Reg.* 3451 (January 22, 2015).

<sup>91</sup> As of the date of this publication, FEMA policy to meet the requirements of EO 13688 is under development. Absent publication of a specific policy, Recipients and Applicants must obtain specific guidance from FEMA.

<sup>92</sup> [www.fema.gov/schedule-equipment-rates](http://www.fema.gov/schedule-equipment-rates).