

Options for Compensation

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

The University of Tennessee
Municipal Technical Advisory Service
1610 University Avenue
Knoxville, TN 37921-6741
865-974-0411 phone
865-974-0423 fax
www.mtas.tennessee.edu

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Options for Compensation

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A municipality using volunteer firefighters has two options when it comes to compensation for volunteer firefighters.

Option 1:

The municipality should process any compensation (no matter how small) a volunteer firefighter receives through the municipality's regular payroll system and issue the volunteer firefighter a W-2 at the end of the year. Compensation is defined as any money paid to the volunteer firefighter in the form of a per call stipend, per drill stipend, per diem allowance, monthly allowance for administrative services, etc. A person is an independent contractor if the payer (municipality) has the right to control or direct the result of the work only and not what is done and how it is done. Volunteer firefighters do not meet the definition of contractor, so reporting compensation on a 1099 form is not appropriate. It is important that the municipality classify volunteer firefighters properly. If the municipality improperly classifies a volunteer firefighter as an independent contractor, the municipality may be liable for employment taxes for that volunteer firefighter.

If the compensation is less than 20 percent of what a paid firefighter for the local area would make on an annual basis, the firefighter is considered a volunteer under FLSA. If the municipality pays the firefighter any type of hourly rate, or ties the compensation to the length of time worked or productivity, FLSA considers the person an employee and not volunteer. A part-time firefighter or full-time firefighter also cannot be a volunteer for the same agency, but can volunteer as a firefighter for a different agency.

Option 2:

Have true volunteers who serve without any compensation and establish an accountable plan whereby the volunteers are reimbursed for actual expenses allowed under IRS regulations. The plan must be in writing and include the requirement that the volunteers substantiate business expenses, allow no reimbursement for unsubstantiated expenses, and require that they return any amounts reimbursed over documented expense to the employer within a reasonable period. Under this plan, the volunteer firefighter is receiving reimbursement for expenses and is not receiving compensation for services, so the employer is not required to complete a W-2.

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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