

Mutual Aid  
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The Federal Emergency Management Agency (FEMA) guidelines that cover reimbursement for costs incurred in providing mutual aid in a disaster and found in FEMA 322, "Public Assistance Guide".

Many cities use mutual aid agreements as an integral part of their preparation for a disaster and some depend on mutual aid for standard service delivery. A mutual aid agreement is simply a written agreement between two jurisdictions or agencies to provide services across their normal boundaries during an emergency. Cities can set the conditions of these agreements in advance and agree to provide reciprocal services or you may choose to have direct payment for services.

FEMA will reimburse mutual aid costs for legitimate, eligible work when requested by the applicant under the following conditions:

1. The agreement is in writing and in effect prior to the disaster;
2. The entity that received the aid was actually charged for that aid;
3. The agreement does not contain a contingency clause that specifies payment only upon receipt of FEMA funds; and
4. Proper documentation is provided.

In 2004, Tennessee passed the Mutual Aid and Emergency and Disaster Assistance Agreement Act of 2004, which is found in Tennessee Code Annotated § 58-8-101 *et seq.* This law simplified the mutual aid process in Tennessee by establishing a model mutual aid agreement in TCA that applies to all departments in the state unless the local governing body passes a resolution to opt out of the law. Since July 1, 2004, no separate agreement is necessary except with regard to aid or assistance provided to entities in other states, and governmental entities that decide to provide aid and assistance under a separate agreement. Section 58-8-11 includes a reimbursement schedule that complies with the FEMA requirements. Cities that do not have separate mutual aid agreements can provide mutual aid under the Mutual Aid and Emergency and Disaster Assistance Agreement Act of 2004 to other cities, both daily and in a disaster, and be eligible for reimbursement in a presidentially declared disaster.

If a county, town, or city has elected to sign separate mutual aid agreements, it is important to make sure that the agreement contains language that spells out if and how one party will compensate another for the expenses incurred in providing mutual aid. It is also important to make sure that any such agreement does not contain language that says the parties do not charge each other unless FEMA is paying, and then we charge. The participants must decide when drafting a separate agreement for mutual aid to either charge each other, or not to charge and just provide reciprocal services.

Let's use a fire department example. In our sample two cities have a written mutual aid agreement that provides for the provision of reciprocal services with no charges. This is the type of mutual aid agreement that some fire departments prefer because it does not obligate either party to pay for "routine" (i.e. non-disaster related) mutual aid responses. If a disaster is declared by the President of the United States and the area involved in the disaster includes one of the cities, that city can request reimbursement for all eligible expenses, but the city that supplies the mutual aid to the affected city may not be reimbursed for their expenses, since the pre-existing mutual aid agreement did not require direct payment for services. This does not mean that the affected city cannot put fuel into vehicles belonging to a mutual aid fire department, feed or house firefighters, or provide necessary supplies during the operation. These expenses would be reimbursable. However, the city supplying the mutual aid will not be reimbursed for the salaries or hourly or daily rates for use of equipment. This example may be applied to other departments of the city, which may have mutual aid agreements such as utilities or police.

If the previous example is how your current mutual aid agreements are worded and this is O.K. with city lawmakers, you do not have to change anything. Your current mutual aid agreements are valid.

If you want your separate mutual aid agreements to contain provisions for direct payment of services, each city can review their current mutual aid agreements and either re-negotiate them, or give proper notice of termination. If you decide that you want to charge for mutual aid provided, specific provisions for the amounts charged should be included in the mutual aid agreements. These amounts do not have to be fixed charges. They can reference some outside scale like the one FEMA has provided to the states. A copy of the current FEMA Equipment Rate Schedule is attached to this letter, and FEMA updates this schedule annually.

For mutual aid at non-presidentially declared emergencies, cities could charge each other whatever they had agreed to in the document. However, in the event of a declaration of disaster by the president, the cities must charge what the agreement provides or the amount on the FEMA Equipment Rate Schedule – whichever is least.

Just remember, you can't have it both ways – if you charge for mutual aid you must do it all the time, not just when FEMA is paying the bill. The model mutual aid law in the Mutual Aid and Emergency and Disaster Assistance Agreement Act of 2004 contains provisions for providing and receiving mutual aid in a non-disaster and disaster situations, and contains provisions for reimbursement that meet FEMA guidelines. If you have separate mutual aid agreements, you must decide whether to charge for mutual aid or not. If you elect not to charge for mutual aid, you must understand that costs of equipment and salaries will not be reimbursed to cities giving mutual aid in a declared disaster.