

Attachment 3
Memorandum of Agreement: Mutual Aid for Incidents Requiring Federal Coordination
(Non-Stafford Act)

I. Parties

The parties to this Memorandum of Agreement (Memorandum) are the Federal departments and agencies providing mutual aid for Non-Stafford Act incidents requiring Federal coordination.

II. Authorities

Applicable Federal authorities may include, but are not limited to:

- A. Homeland Security Act of 2002 (6 U.S.C. § 101 et seq.).
- B. Economy Act (31 U.S.C. §1535).
- C. Clean Water Act, as amended (33 U.S.C. § 1321)
- D. Oil Pollution Act of 1990 (33 U.S.C. § 2701 et seq.)
- E. Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. § 9601 et seq.)
- F. Small Business Act (15 U.S.C. § 631 et seq.)
- G. Public Health Service Act (42 U.S.C. § 201 et seq.)
- H. Reciprocal Fire Protection Act (42 U.S.C. §1856)
- I. Department of Veterans Affairs Emergency Preparedness Act (38 U.S.C. § 1785)
- J. Homeland Security Presidential Directive 5 (HSPD-5).

III. Purpose

The Federal Government's response to incidents requiring Federal coordination will likely exceed the authority or capabilities of any individual Federal department, agency, or their elements ("Federal agencies"). Coordination and support within and among the Federal agencies is essential to maximize the use of available assets, resources, and expertise under the *National Response Framework (NRF)* to save lives and to protect property, natural resources, and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

Recognizing that each Federal agency has different expertise and resources, and plays an important role in responding to incidents requiring Federal coordination, the purpose of this Memorandum is to create a framework for interagency or intra-agency mutual aid for Federal-to-Federal support among participants of the *NRF* when Federal-to-Federal support is requested and provided for an incident that is not declared a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. §§ 5121-5206 ("Stafford Act").

This Memorandum does not preclude participating Federal agencies from entering into supplementary agreements with other Federal agencies for incidents or events within their respective authorities, nor does it affect any other agreement to which a Federal agency may currently be, or decide to be, a party. This Memorandum does not preclude Federal agencies from requesting or providing assistance on a nonreimbursable basis where authorized.

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A. Operating Assumptions

1. Based on the incident's scope and effect, mutual aid requirements may vary depending on the magnitude and type of event; the stage of the prevention, preparedness, response, or recovery efforts; or the availability of resources, including nonmonetary resources.
2. A Federal entity with primary responsibility and statutory authority for handling an incident (i.e., the requesting agency) that needs support or assistance beyond its normal capabilities may request DHS coordination and facilitation through the *NRF*.
3. Generally, the requesting agency provides funding for the support consistent with provisions of the Economy Act, unless other relevant statutory authorities exist.
4. DHS coordinates assistance using the multiagency coordination structures in the *NRF* and in accordance with the *National Incident Management System*.
5. In accordance with HSPD-5, Federal departments and agencies are expected to provide their full and prompt cooperation, available resources, and support, as appropriate and consistent with their own responsibilities for protecting national security, to the Secretary of Homeland Security in the exercise of responsibilities and missions as the principal Federal official for domestic incident management.

B. Operating Procedures

1. Federal agencies participating in the *NRF* may request and provide Federal-to-Federal support by executing interagency or intra-agency reimbursable agreements, in accordance with the Economy Act (31 U.S.C. §1535) or other applicable authorities.
2. The Reimbursable Agreement form to be used by Federal agencies requesting support for a non-Stafford Act event is the Request for Federal-to-Federal Support (see Attachment 3, Tab 1).
3. The period of support for purposes of reimbursement will be as stated in the reimbursable agreements.
4. All Federal entities shall use generally accepted Federal financial principles, policies, regulations, and management controls to ensure proper accountability of their respective funds.

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IV. Responsibilities

- A. Federal Agencies Requesting Support:** Federal agencies requesting mutual aid pursuant to this Memorandum shall be responsible for:
1. Requesting Federal-to-Federal support by executing reimbursable agreements under this agreement. The reimbursable agreements describe work to be performed, date of completion, and funding limitations. The requesting agency is responsible for monitoring the work progress of the supporting agency.
 2. In conjunction with its supporting agencies, advising the FRC of the type of assistance and support requested, from which agencies support has been requested, when the support is provided, and the amount and distribution of funding required in support of the Incident.
 3. Overseeing all financial management activities relating to financial operations, ensuring that sound financial management practices and standards are applied, and ensuring that all funds expended are accounted for in accordance with generally accepted accounting principles of the Federal Government.
 4. Coordinating requests with OMB and Congress for adequate funding to meet projected expenditures for specific incidents/events, as required.
 5. Ensuring expeditious receipt and review of bills or requests for reimbursement for mutual aid provided prior to processing payments, and ensuring that proper documentation supports the expenditures claimed.
 6. Reviewing all requests for reimbursement for goods and services from supporting agencies before payment. The requesting agency certifies that the expenditures claimed have been reviewed, are eligible, and are relevant to the request for mutual aid, and that costs are reasonable and supported by proper documentation.
 7. Complying with the requirements of the Economy Act or other applicable statutes.
- B. Federal Agencies Providing Support:** Federal agencies providing reimbursable mutual aid support pursuant to this Memorandum shall be responsible for:
1. Maintaining appropriate documentation that clearly identifies the assistance provided to the requesting agency and supports requests for reimbursement.
 2. Notifying the requesting agency when a task is completed or when additional time is required to complete work in advance of the projected completion date.
 3. Submitting final reimbursement requests after completing a task. Final bills should be marked "Final."

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4. Applying proper financial principles, policies, regulations, and management controls to ensure full accountability for expenditures.
5. Complying with the requirements of the Economy Act or other applicable statutes.

V. Reimbursement of Federal Agencies Providing Support

- A. Federal agencies providing mutual aid support under this Memorandum shall request reimbursement from the requesting agency for eligible expenditures. Requests for reimbursement should include a breakdown of charges by budget sub-object class or as otherwise specified by the requesting agency.
- B. Fees for goods or services described in reimbursable agreements are paid from funds cited upon delivery. Payments are made using the Treasury Intra-governmental Payments and Collections (IPAC) system.
- C. All requests for reimbursement must contain adequate documentation to support expenditures claimed as reimbursable. The vehicle used to obligate funds for authorized expenditures of Federal-to-Federal support is the Request for Federal-to-Federal Support.
- D. Federal agencies providing support and receiving reimbursement from the requesting agency for goods or services shall record such funds to the appropriation against which charges were made to fill the order. In accordance with OMB Circular No. A-11, Federal agencies should submit to OMB on the SF-132 an annual estimate of reimbursable budget authority expected to carry out their responsibilities under the *NRF*.
- E. Intragovernmental transactions, including advances of funds, under Federal-to-Federal support reimbursable agreements shall comply with the business rules set forth in Treasury Financial Manual, Bulletin No. 2007-03, Intragovernmental Business Rules, dated November 15, 2006.
- F. Nothing in this agreement is intended to and does not obligate funds, nor is this agreement to be construed as obligating funds of the parties.

VI. Other Provisions: Nothing herein is intended to conflict with current law or regulation or agency directives of any of the parties. If any terms of this Memorandum are found to be inconsistent with any such authority, then those terms shall be invalid, but the remaining terms and conditions are not affected by the inconsistency and shall remain in full force and effect.

VII. Liability: Each Federal agency shall be liable for the acts and omissions of its own employees to the extent provided by Federal laws or regulations.

VIII. Effective Date: This Memorandum is effective upon signature by the respective signatory Federal agencies.

IX. Modification: This Memorandum may be amended at any time to further its purposes, extended, or renewed by mutual written agreement of the parties. This Memorandum shall be reviewed on a periodic basis, but not less than once every five (5) years.

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- X. Termination:** The terms of this Memorandum, as modified with the consent of all parties, remain in effect indefinitely unless either terminated by (1) mutual written agreement of the respective parties or (2) the giving of thirty (30) days advance written notice by the respective parties. Notwithstanding any termination or withdrawal, the terms of this Memorandum shall remain applicable to any outstanding Reimbursable Agreement.

APPROVED BY:

The signatories to this Memorandum of Agreement.

**Attachment 3, Tab 1
Request for Federal-to-Federal Support – Non-Stafford Act**

Request for Federal-to-Federal Support					
I. Tracking Information (Requesting Agency Only):					
State (if applicable)		Action Request No.		Program Code/Incident No.	
II. Parties:					
Requesting Agency			Supporting Agency		
Contact		Phone		Phone	
Name (specify if billing address is different)			Name		
Address			Address		
City		State	Zip	City	
III. Duration:					
Projected Start Date:			Projected End Date:		
IV. Requested Support:					
Brief description of requested support and basis for determining cost:					_____ New Request
(Attach additional sheet for continuation of explanation, if necessary.)					_____ Amendment to
					Action Request No. _____
ESF No. (if applicable)		Quantity		Delivery Location	Estimated Amount
					\$
V. Authority for Request:					
Cite authority for request if not Economy Act:				SEE REVERSE for Determination and Finding (if Economy Act)	
VI. Funding:					
Agency Location Code		Appropriation Code		Funds Citation	
Requesting Agency Program Approval (Signature and Date)				Funds Certification Approval (Signature and Date)	
VII. Approvals:					
Approved for Requesting Agency:			Approved for Supporting Agency:		
Organization			Organization		
Signature			Signature		
Title			Title		

Conditions of Agreement

1. Financing: The charges for services shall include both direct and indirect costs applicable to the agreement. Advance payments, if authorized, are made on an estimated cost basis. If the estimated advance is different from the actual costs, proper adjustment (refund or additional billing) on the basis of the actual costs incurred shall be made upon completion of the work. (The frequency of billing, such as monthly, quarterly, etc., must be stated in the narrative portion of the form.)

2. Other Provisions:

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DETERMINATION AND FINDINGS: AUTHORITY TO ENTER INTO A PAYABLE INTER/INTRA-AGENCY REIMBURSABLE AGREEMENT UNDER THE ECONOMY ACT

Based on the following determinations and findings, in accordance with the authority of the Economy Act (31 U.S.C. 1535), as implemented in subpart 17.5 of the Federal Acquisition Regulation (FAR), and as described on Page 1, the requesting agency intends to enter into an inter/intra-agency agreement with the supplying agency.

FINDINGS

- A. The requesting agency has a need for the supplying agency to provide the supplies and/or services as described on Page 1, Block IV. The total cost of the agreement is estimated to be \$_____. (If this is a multi-year agreement, the estimated dollar amount should be shown for each fiscal year, along with the aggregate/total.)
- B. The supplies and/or services as described on Page 1, Block IV cannot be obtained as conveniently or economically by contracting directly with a private source.
- C. Nothing in this requirement conflicts with the authority of the supplying agency.
- D. NOTE: If the agreement requires contracting action by the supplying agency, indicate which of the following applies:
 - _____ 1. The acquisition will appropriately be made under an existing contract of the supplying agency, entered into before placement of the order, to meet the requirements of the supplying agency for the same or similar supplies or services.
 - _____ 2. The supplying agency has capabilities or expertise to enter into a contract for such supplies or services which is not available within the requesting agency.
 - _____ 3. The supplying agency is specifically authorized by law or regulation to purchase such supplies or services on behalf of other agencies.
- E. Because of the emergency nature of the need, it is in the best interest of the Government to issue an agreement.

DETERMINATION

Based on the above findings, I hereby determine that it is in the best interest of the Government to enter into an Interagency Agreement with the supplying agency.

Name of Contracting Officer or Other Official Designated by Requesting Agency Head:

Signature of Contracting Officer or Other Official Designated by Requesting Agency Head:

Date: _____

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Approval of the Chief Procurement Officer if the supplying agency is not subject to the Federal Acquisition Regulation:

Name:

Signature:

Date:
