

Guidance Inquiry Response
Mutual Aid: Texas Statewide Mutual Aid System (TSMAS)
Public Assistance Program
FEMA-4332-DR-TX

Question: Can the Texas Statewide Mutual Aid System (TSMAS) service as the mutual aid agreement between schools and the local government for reimbursement as the governing document that facilitated the mutual aid services?

Answer: Yes, when the request for mutual aid assistance between local government entities¹ “is considered to be made under the TSMAS, unless the requesting and responding entities are parties to written mutual aid agreement in effect when the request is made” (§ 418.111(b)).

Process for Responding Local Government to Receive Funding under TSMAS

- A request for mutual aid assistance may be submitted verbally or in writing. If a request is submitted verbally **it must be confirmed in writing**”. § 418.115(a).
- If federal money is available to pay costs associated with the provision of mutual aid assistance, the **requesting local government entity shall make the claim for the eligible costs of the responding local government entity on the requesting entity's subgrant** application and shall disburse the federal share of the money to the responding local government entity, with sufficient local funds to cover the actual costs of the responding local government entity in providing assistance. § 418.1181(b)

Reimbursement included in the TSMAS

- When mutual aid services are provided under TSMAS and the response exceeds 12 consecutive hours, the requesting entity shall reimburse the providing entity’s actual costs, including: “personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation” (§ 418.1181(a)).

¹ Under **TSMAS, local government** includes **independent school districts** (§ 418.0041(10)). Under the Stafford Act § 102(8), 42 U.S.C. § 5122; and 44 CFR § 206.2(a)(16), **local governments** include counties, municipalities, cities, towns, townships, local public authorities, **school districts**, special districts established under State law, intrastate districts, councils of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under State law), regional or interstate government entities, agencies or instrumentalities of a local government; State-recognized Tribes; and rural communities, unincorporated towns or villages, or other public entities, for which an application for assistance is made by a State or political subdivision of a State.

Question: An ISD independently opens its facilities to shelter survivors after an event due to the essential needs of a community and wants to request reimbursement for the associated costs for shelter operations under the PA program. Can the ISD use TSMAS authorities to allow FEMA to reimburse an ISD directly?

Answer: No, the ISD does not have legal responsibility for ensuring public safety, health, and welfare of the community. To be eligible for PA funding consideration; 44 CFR 206.223 General work eligibility. (a)General. To be eligible for financial assistance, an item of work must: (1) Be required as the result of the emergency or major disaster event; (2) Be located within the designated area of a major disaster or emergency declaration, except that sheltering and evacuation activities may be located outside the designated area; and (3) Be the **legal responsibility of an eligible applicant.**

The ISD may obtain an agreement, in writing within 30 days of the its Applicants' Briefing, with the entity that has legal responsibility for ensuring public safety, health and welfare of its community and agree to the terms related to shelter operations and submit the associated costs to that entity for consideration of reimbursement.

Discussion:

- The TSMAS is an integrated statewide system between local government entities that can operate without a pre-existing mutual aid agreement. The mutual aid afforded by the Act is broad, with the Act referring to “personnel, equipment, and other assistance” as being contemplated by TSMAS (See Tex. Gov’t § 418.1151(a)). Mutual aid is not limited in duration, and will continue until either the responding or the requesting local government entity determines that the aid should end (§ 418.1153).
- Requests for mutual aid can come from the Texas Division of Emergency Management (Division) to a local government entity (§ 418.118), or from one local government entity to another (§ 418.1181). In the latter case, if response for mutual aid comes from one local government entity to another (and exceeds 12 consecutive hours), the requesting entity shall reimburse the actual costs, including: “personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation” (§ 418.1181(a)). If federal assistance is available, the requesting entity makes the request for federal assistance, then disburses money to the responding entity. The requesting entity is directed to supplement federal assistance with local funds to cover the actual costs expended by the responding entity (§ 418.1181(b)).
- Independent school districts are included in the definition of “local government entity:” “Local government entity” means a county, incorporated city, independent school district, public junior college district, emergency services district, other special district, joint board, or

other entity defined as a political subdivision under the laws of this state that maintains the capability to provide mutual aid. § 418.0041(10).

- “A request for mutual aid assistance between local government entities is considered to be made under the system, unless the requesting and responding entities are parties to written mutual aid agreement in effect when the request is made.” § 418.111(b).
- “A request for mutual aid assistance may be submitted verbally or in writing. If a request is submitted verbally it must be confirmed in writing”. § 418.115(a).
- “The provision of mutual aid assistance under the system may continue until: (1) the services of the responding local government entity are no longer required; or (2) the responding local government entity determines that further assistance should not be provided.” § 418.1153.
- TSMAS is a preexisting mutual aid agreement; no additional written mutual aid agreement is required.
- The TSMAS is silent on collateral damage caused by sheltering.

Policies and other references

- *Public Assistance Program and Policy Guide, FP 104-00902* / April 2017; mutual aid information is on pages 34 through 35.
- Statewide Mutual Aid Agreement, H.B. No. 1471,
<http://c.ymcdn.com/sites/txwarn.site-ym.com/resource/resmgr/Docs/StatewideMutualAidAgreement.pdf>
- *Texas Emergency Management Statutes*, Texas Division of Emergency Management
https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=5&cad=rja&uact=8&ved=0ahUKEwitq_yj18rWAhWBLSYKHcZXDZEOFgg7MAQ&url=https%3A%2F%2Fwww.dps.texas.gov%2Fdem%2FGrantsResources%2FtxEmerMgtStatutes.pdf&usg=AFQjCNG-k2mB3bFtRUEJt1yOp7zHQZGdTA

Summary

When recognized parties, under the TSMAS, provide services or request services, FEMA will consider TSMAS the written mutual aid agreement, unless the parties provide an agreement that supersedes the TSMAS. This should be provided to FEMA within 30 days of the Applicant’s Briefing (PAPPG pg. 34).