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COVID-19: Stafford Act Relief for State and Local Governments

As a result of COVID-19, seventeen states have issued stay-at-home orders and President Donald J. Trump declared a national emergency, which has impacted citizens, businesses, and governments across the country. However, the declaration of a national emergency brings certain relief to affected state and local governments with the Stafford Disaster Act. The Robert T. Stafford Disaster Relief and Emergency Assistance Act unlocks federal assistance for state and local governments to combat and respond to the COVID-19 pandemic.

This advisory is intended to provide state and local governments insight into the Stafford Act, guidance as to what assistance is available, and advice on how to apply for assistance from the federal government.

Declaration of a National Emergency

In order for the federal government and Federal Emergency Management Agency to provide assistance, the President must declare that an emergency or major disaster exists under the Stafford Act, 42 U.S.C. § 5191(b). On March 13, 2020, President Trump declared COVID-19 a national emergency in his “Declaration of National Emergency Concerning the Novel Coronavirus (COVID-19) Outbreak.”

FEMA Public Assistance

FEMA provides assistance through its Public Assistance Program to a variety of entities including: state, territorial, Indian Tribal, local governments, and certain types of private nonprofit organizations. Local governments submit their requests for the Public Assistance Program through State in which it is located. The State then bundles the requests from local governments and submits an Application for Federal Assistance (SF-424) and Assurance (SF 424-D) to FEMA requesting reimbursement assistance.

Stafford Act Eligibility

The Stafford Act allows entities taking certain emergency protective measures pursuant to guidance by public health officials in responding to COVID-19 to be reimbursed under Category B of FEMA's Public Assistance Program. This program allows FEMA and the federal government to share 75% of costs incurred by eligible entities. For work to be eligible for the Public Assistance Program, the work must be required as a result of the declared COVID-19 emergency and must be the legal responsibility of the eligible entity. The costs must be directly tied to the performance of eligible work and must be adequately documented, and the requirements should be rigorously followed. These requirements can be found in Table 10 of the Public Assistance Program and Policy Guide.

A few of the COVID-19 emergency costs that could be eligible for reimbursement under the Public Assistance Program include:

- Emergency Operation Center costs;
- Increased costs to operate a facility;
- Meals for emergency workers;
- COVID-19 training costs;
- Costs associated with communication to the public;
- Disinfection of certain public facilities;
- Technical assistance for emergency management;
- Medical costs such as non-deferrable medical treatment of infected persons;
- Related medical facility services and supplies, creation of temporary medical facilities, enhanced hospital capacity, medical waste disposal, emergency transport, use of specialized medical treatment;
- Purchase and distribution of PPE;
- Security and law enforcement expenses;
- Government employee overtime costs.

Stafford Act Application Process

In order to streamline the application process during the COVID-19 pandemic, FEMA has developed the “Coronavirus (COVID-19) Pandemic: Public Assistance Simplified Application.” The simplified application and the process to fill it out is available [here](#). This process involves an online form for applicants to explain their eligibility and provide supporting documentation and cost estimates. Once this application is received, FEMA will review, follow up with questions if necessary, and award assistance. Though FEMA is working to make this process as efficient as possible, navigating eligibility for federal assistance, especially in uncharted COVID-19 territory, can be difficult for many entities and require assistance from those with professional experience in that area.

Our legal team at Frost Brown Todd is working closely with leaders at all levels of government—federal, state, and local—in responding to the COVID-19 pandemic. If you have any specific questions or would like to more specifically discuss situations regarding seeking funds under the Stafford Act, please contact [Thomas Wheeler](#) or any attorney in Frost Brown Todd’s [Government Services](#) practice group.

To provide guidance and support to clients as this global public-health crisis unfolds, Frost Brown Todd has created a [Coronavirus Response Team](#). Our attorneys are on hand to answer your questions and provide guidance on how to proactively prepare for and manage any coronavirus-related threats to your business operations and workforce.

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