

LEGAL UPDATES

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# FEMA Funds Available for Higher Education Institutions

On March 13, 2020, the COVID-19 pandemic was declared a National Emergency by President Trump. This declaration set in motion the availability of FEMA Public Assistance Program (PAP) disaster relief funds to support educational institutions, among others, during the recovery. On March 27, 2020, additional FEMA PAP disaster relief funds of approximately \$45 billion were appropriated through the CARES Act to address the public health emergency. Further, many of the longstanding FEMA policies and procedures are being loosened to streamline and expedite funding for educational institutions.

FEMA PAP is not available when funding or resources are available from another federal agency. Hence, the decision regarding allocation of the different federal funds to eligible entity COVID-19 costs and expenses is an important one. Careful advance planning is strongly recommended to ensure maximum appropriate reimbursement from all available federal funds, including FEMA PAP funds.

Set forth below are the eligibility requirements, as well as the costs and expenses eligible for reimbursement, and the immediate steps that can be taken to strategically prepare your request for FEMA PAP relief funds.

### Eligible organizations

FEMA's PAP defines Institutions of Higher Education as those which:

1. Admit students possessing a high school diploma or equivalent.
2. Are legally authorized to provide education beyond the secondary level.
3. Award bachelor's degrees or two-year degrees which are acceptable as full credit towards a bachelor's degree.

4. Are a public or private nonprofit institution.
5. Are accredited by a nationally recognized agency or association (as determined by the Secretary of the Department of Education).

### **Eligible assistance**

FEMA may provide PAP funding for the following:

1. Emergency operation center costs
2. COVID-19 training
3. Professional disinfection and cleaning services
4. Consumable supplies, like masks, protective gloves, sanitizing wipes, hand sanitizer and expenses incurred related to packaging and distributing such items
5. Public health and safety communications
6. Contracted security and barricades
7. Administration/management costs (e.g., costs incurred to submit FEMA PAP application)
8. Certain increased labor costs necessary for the COVID-19 response (i.e., overtime for budgeted medical staff and straight time and overtime for temporary staff)
9. Campus medical expenses including triage; medically necessary tests, treatment and monitoring; durable medical equipment; consumable medical equipment including medications and medical supplies; and temporary medical facility expenses.

Funding will not be available for damages or losses covered by insurance. Insurance coverages must be subtracted from all applicable PAP funding in order to avoid duplication of financial assistance.

### **Take immediate steps to prepare for FEMA PAP relief funds**

Traditionally, FEMA required PAP fund requests to be submitted within 30 days of the disaster declaration. FEMA recognized this was an unrealistic timeframe given the ongoing nature of the COVID-19 public health emergency and consequently extended the deadline for COVID-19 Requests for Public Assistance (RPA) to 30 days after the end of the declared disaster period.

Although the end of the disaster period has not been declared, and hence the final deadline for an RPA has not yet been established, higher education institutions should nonetheless immediately begin to implement processes to secure a successful cost recovery:

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1. **Create** an account through the PA Grants Portal to initiate your organization's RPA and subsequent COVID-19 Streamlined Project Application. Disaster relief grant programs typically have extended timelines, often upwards of 18-24 months, so creating this portal, sooner rather than later, is an important initial step.
2. **Develop and implement** an organized process for recording and saving all documentation, invoices and proof of payments of costs. All reimbursable expenses require detailed documentation. Be prepared to answer the five W questions (who, what, when, where and why). Higher education institutions are well experienced in working with federal programs which require documentation to receive reimbursement. FEMA PAP relief funds will require no less documentation, and perhaps more.
3. **Consider** the FEMA Fact Sheet summarizing relevant financial management concepts and principles to implement during the ongoing response to and recovery from COVID-19:

Portfolio and project management

Knowledge of procurement and contract practices

Document all expenditures related to the COVID-19 response

Log and track time and expenses

Compile cost and expense data

Document use of mutual aid and volunteer programs

Continue documentation processes

Increase or adjust legal authorities

Manage positive cash flow

4. **Develop and implement** a written procurement policy that complies with FEMA standards. Please be aware that any purchase in excess of \$250,000 requires competitive bidding unless a procurement policy is put in place that allows for procurement under exigent circumstances.
5. **Recognize** that FEMA PAP funds will be provided at a cost share for approved costs and expenses, with the federal share covering 75 percent of eligible costs. The cost share ensures local involvement through financial participation. After submission of a PAP application, a program delivery manager is assigned to guide the applicant through the PAP grant development process, help the applicant gather and submit additional documentation, and

ultimately submit for final processing. Once a project is approved, FEMA obligates funds to the state, and the state is responsible for disbursing money to the applicant.

6. **Review** the Disaster Financial Management Guide, released by FEMA in April 2020, which was designed to help higher education institutions and others successfully use all available federal resources for disaster relief, including COVID-19 Supplemental Funding, which includes:

CARES Act

Coronavirus Preparedness and Response Supplemental Act

Families First Response Act

7. **Prioritize** which funds to submit for reimbursement to the FEMA PAP relief program. FEMA provides funding assistance under PAP only if it is not covered by another funding source.
8. **Understand** that FEMA allows up to 5% of the total grant to be applied to administrative costs related to applying for the grant.

### **Work with FEMA successfully**

A significant majority of higher education institutions have little experience working with FEMA. When communicating with FEMA it is imperative to offer clear and concise explanations of the day-to-day organizational operations to be successful in securing funding.

At Husch Blackwell, our team of FEMA experienced attorneys can help navigate the necessary process in applying and securing FEMA PAP relief funding, and if necessary, help bring success in challenging FEMA funding decisions. Our FEMA team will continue to monitor the changes to the FEMA PAP relief funds program and are here to help.

### **Contact us**

If you have any questions or if you would like guidance in applying for FEMA PAP relief funds related to COVID-19, please contact Tom Shorter, David Human, Karin Jacoby, Varsha Gadani, David Human, Jr. or your Husch Blackwell attorney.

### **Comprehensive CARES Act and COVID-19 guidance**

Husch Blackwell's CARES Act resource team helps clients identify available assistance using industry-specific updates on changing agency rulemakings. Our COVID-19 response team provides clients with an online legal Toolkit to address challenges presented by the coronavirus outbreak, including rapidly

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changing orders on a state-by-state basis. Contact these legal teams or your Husch Blackwell attorney to plan a way through and beyond the pandemic.