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MEMORANDUM

TO: District School Superintendents
FROM: Hershel Lyons
DATE: May 18, 2018
SUBJECT: School Sheltering Reimbursements

Contact Information:

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DPS: 2018-85

Attached is recent guidance received by the Florida Department of Education from the Florida Division of Emergency Management (FDEM) regarding school sheltering reimbursements. Please be aware that this information has been shared by FDEM with county officials.

HL/me

Attachments

cc: District Finance Officers

HERSHEL LYONS
CHANCELLOR OF PUBLIC SCHOOLS

From: Maul, Wesley [<mailto:Wesley.Maul@em.myflorida.com>]

Subject: School Sheltering Reimbursements

Recently at the Joint Field Office in Orlando, Public Assistance (“PA”) staff from the Federal Emergency Management Agency (“FEMA”) and the Florida Division of Emergency Management (“FDEM”) addressed the issue of applicant eligibility for evacuation sheltering during Hurricane Irma. Depending on the circumstances, these costs can include the use of public school buildings, personnel, and transportation resources. The discussions did not address applicant eligibility for permanent work (e.g. repairs to a school for wind damage caused by a hurricane).

In an effort to determine who qualifies as an eligible applicant for reimbursement of hurricane evacuation sheltering costs through FEMA’s PA Program, FEMA and FDEM PA staff focused on the question of legal responsibility under the Federal Rules. By determining who has legal responsibility, FEMA and FDEM PA staff could then determine who should apply directly to FEMA for reimbursement of Hurricane Irma sheltering costs.

Historically, school districts received reimbursement for hurricane evacuation sheltering costs in one of two ways:

- (1) The county reimburses the school district through a mutual aid agreement; or,
- (2) The school district applies directly to FEMA for reimbursement through a PA Project Worksheet (“PW”).

Under scenario #1, the county serves as the “requesting entity” and the school district serves as the “providing entity” in a mutual aid arrangement. The mutual aid arrangement provides the school district with the legal authority to conduct the work, but does not transfer or bestow legal responsibility from the county to the school district. Hence, the county is the applicant for FEMA PA purposes. Under this scenario, the school district is entitled to 100% reimbursement from the county. Because the county is required to reimburse the school district upon receipt of an invoice, a school district is likely to receive reimbursement from the county well before it could ever receive reimbursement through the FEMA PA process. However, the county must “float” the cost of the sheltering until it receives reimbursement from FEMA; additionally, the county must shoulder the cost of one half of the non-Federal cost share. Hence, for a “75/25” incident, the county would receive 87.5% reimbursement of the sheltering costs; for a “90/10” incident, the county would receive 95% reimbursement.

Under scenario #2, no mutual aid arrangement exists. Therefore, the county would have no involvement in the reimbursement process. The school district would be required to “float” the cost of the sheltering until it receives reimbursement from FEMA; additionally, the school district would shoulder the cost of one half of the non-Federal cost share. For a “75/25” incident, the school district would receive 87.5% reimbursement of its sheltering costs; for a “90/10” incident, the school district would receive 95% reimbursement.

Following the discussions between FEMA and FDEM PA staff, FDEM Director Wes Maul formed an EM working group consisting of a number of County Emergency Management (“EM”) Directors in an effort to gauge how these policies were actually being implemented at a local level and to receive community crafted arguments as to how Scenario 2 was consistent with State and Federal law. A group was formed, and FDEM received input from County EM Directors as well as the Florida Association of Counties and County Attorneys.

FDEM presented the working group's positions to the FEMA Federal Coordinating Officer ("FCO") for Hurricane Irma, who ultimately determined that the first scenario best comports with Federal and state law (please see attachment #1). At present, that determination has no impact on any disaster prior to Hurricane Irma.

Subsequent to the FCO's determination, FDEM procured an opinion from an outside entity with significant FEMA PA and Department of Homeland Security Inspector General experience. That opinion largely supports the FCO's decision (please see attachment #2).

Going forward, and in accordance with the FCO's determination, counties should:

- (1) Reimburse school districts directly through a mutual aid agreement (pay the school district 100% of the sheltering costs prior to receiving reimbursement from FEMA); and,
- (2) Apply to FEMA for reimbursement under the PA program.

FDEM is available to assist counties and school districts to ensure maximum reimbursement under the Federal Rules. This may involve assistance in drafting Memorandums of Understanding ("MOU") between counties and school districts that establish the amount of reimbursement. Of note, FEMA Rules may allow for after-the-fact MOUs that formalize pre-existing relationships.

If you have any questions, please feel free to contact State Public Assistance Officer Carter Mack at Carter.Mack@EM.Myflorida.com.