



HUMAN RESOURCES DEPARTMENT

FORT BEND COUNTY, TEXAS

Kent M. Edwards, PHR
Director of Human Resources

To: Judge KP George
Commissioner Vincent Morales
Commissioner Grady Prestage
Commissioner Andy Meyers
Commissioner Ken DeMerchant

From: Kathy Novosad
Sr. Human Resources Generalist

Date: June 17, 2020

Subject: Revisions to Policies of the Employee Information Manual

Human Resources is submitting revisions to *Policy 413, Emergency Operations Personnel and Pay Procedures*. This revised policy has been a collaborative effort between Human Resources, the County Attorney's Office, and the County Auditor's Office. The policy is revised to provide clear communication on the responsibility of all County officials and employees to respond during an emergency situation, and provides both benefit and consequence to ensure an adequate response.

The revisions eliminate the problematic provisions of Emergency Deferred Time, but provide for an Emergency Closure Response Stipend (ECRS) of \$6.00 per hour to be paid to those employees who perform Emergency Protective Measures during an emergency. You will find explanation of all terms and provisions within the policy.

The proposed \$6 ECRS plan represents 22.3% of the average base salary of all FBC employees (26% for non-exempt and 15% for exempt), and offers significant improvements over the previous Emergency Deferred Time:

- 1) a lower compensatory rate for these hours
- 2) a much more restrictive definition of which hours qualify for payment, and
- 3) the requirement that all hours are subject to certification by the Elected Official or Department Head and approval by the County Auditor.

Both Collin County and Tarrant County utilized a form of the \$6 stipend during COVID-19. We believe the stipend provides a fair and adequate means of rewarding employees who participate in an emergency response by performing duties that may be outside of their typical responsibilities.

Fiscal Impact:

Hurricane Harvey – During Hurricane Harvey, the total cost claimed for Emergency Deferred Time was \$1.7 million inclusive of taxes and benefits. Under the ECRS plan, the estimated cost of the stipend, including taxes and benefits, would have been \$355,127.



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COVID-19 – During the COVID-19 closure, 8,645 hours passed the County Auditor's subsequent review of the hours reported, with timesheets to support the hours. Had the ECRS policy been in place, the cost to the County would have been \$63,492 inclusive of salary and benefits.

Please contact Kent Edwards or Ed Sturdivant if you have any questions about the revised policy.

413 – Emergency Operations Personnel and Pay Procedures

<p>Section 413.01 Scope</p>	<p>This policy applies to all employees of Fort Bend County. In the event of a Declared Emergency, Department Heads and Elected Officials may be called upon to provide personnel to assist in the Emergency Operations Center, or otherwise participate in the Emergency Operations Plan.</p>
<p>Section 413.02 Purpose</p>	<p>The citizens of Fort Bend County depend on County employees to respond before, during, and in the aftermath of an emergency situation to assist in the preservation and restoration of essential public services required for health, safety, and quality of life in the County. This policy shall ensure adequate personnel are available and prepared to respond when and as needed.</p>
<p>Section 413.03 Policy</p>	<p>This policy will be in effect at such time as the County Judge or his/her designee, declares that a “State of Emergency” exists, warranting either preparation for, or response to, a potential emergency condition, hereinafter “Declared Emergency.” The President or Governor may also declare a State of Emergency, but this is not a prerequisite for this policy.</p>
<p>Section 413.04 Definitions</p>	<p>The following terms are specific to this policy:</p> <p>Continuity of Operations Plan (COOP): A plan that provides the framework for a County office or department to continue mission essential functions for its staff and citizens if an emergency affects its operations.</p> <p>Disaster: The occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property that results from a natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, or other public calamity requiring emergency action, or an energy emergency.¹</p> <p>Emergency Closure: In the event of a Declared Emergency, the County Judge or his/her designee may make the decision to close some or all County offices or facilities for any duration.</p> <p>Emergency Closure Pay: Continuation of compensation provided to employees who are unable to work, on site or remotely, due to an emergency closure.</p> <p>Emergency Closure Response Stipend (ECRS): Additional compensation paid for workhours dedicated to Emergency Protective Measures during an Emergency Closure.</p>

¹ Labor Code Section 22.001 and Government Code 418.004

	<p>Emergency Condition: An event, expected or unexpected, that places life, property, or the environment in danger, and that requires response beyond routine incident response resources.</p> <p>Emergency Evacuation Order: An official statement issued by the governing body of Texas, or a political subdivision of Texas to recommend the evacuation of all or part of the population of an area stricken or threatened with a disaster. The term includes a declaration of local disaster under Section 418.108, Government Code.¹</p> <p>Emergency Operations Center: The physical location where an organization comes together during an emergency to coordinate resources, response and recovery actions, and make management decisions.</p> <p>Emergency Operations Plan (EOP): A pre-determined plan which is activated during a Declared Emergency to control and coordinate efforts to protect life and property, care for the people affected, and temporarily restore essential community services.</p> <p>Emergency Protective Measures: Actions taken by the county before, during, and following a disaster to save lives, protect public health and safety, or eliminate the immediate threat of significant damage to improved public and private property through cost effective measures</p> <p>Essential Employee: An employee whose presence is essential in implementing all or portions of the Emergency Operations Plan.</p> <p>Non-Essential Employee: An employee who is not instrumental in implementing all or portions of the Emergency Operations Plan.</p>
<p>Section 413.05 Designation of Essential and Non-Essential Employees</p>	<p>Department Heads and Elected Officials are responsible for appointing individual classification of Essential or Non-Essential to each employee of their department/office and notifying each individual employee of his/her obligations under this policy.</p> <p>Notwithstanding designation as essential or non-essential, all County employees may be required to respond in various ways during an emergency situation, including being assigned to other duties in other departments. Adherence to this policy is a condition of employment, and violations of policy may result in disciplinary action, up to and including termination of employment.</p>
<p>Section 413.06 Emergency Operations Staffing: Essential Employees</p>	<p>Essential Employees: Essential Employees are required to be available for duty for the duration of a Declared Emergency, unless specifically relieved of such obligation by the Department Head or Elected Official, and are subject to being utilized when and as needed. Essential Employees who have scheduled, or are on vacation or a non-FMLA leave of absence when an emergency occurs, may be called to duty if necessary.</p> <p>Essential Employees will receive their usual compensation for working during a Declared Emergency in accordance with County policy and applicable Federal and State wage and hour regulations.</p>

	<p>Essential Employees are required to be available for duty even in the event of an Emergency Evacuation Order, or Emergency Closure of County offices or facilities. Failure to comply with this responsibility may result in disciplinary action, up to and including termination of employment.</p> <p>Essential Employees are responsible to pre-plan the safeguarding and/or relocation of their family before the employee is required to report for duty.</p> <p>Essential Employees who are not available to work during a Declared Emergency must provide a valid reason, accompanied by supporting documentation if requested. Valid reasons may include injury or illness, or approved medical leave.</p>
<p>Section 413.07 Emergency Operations Staffing: Non- Essential Employees</p>	<p>Non-Essential Employees: Non-Essential Employees must remain on duty during a Declared Emergency, but may be released from duty by a supervisor if an Emergency Closure of County offices or facilities is ordered. Once released from duty, it is the Non-Essential Employee’s responsibility to return to duty when and as required.</p> <p>Failure to return to duty when and as required may result in disciplinary action, up to and including termination of employment. Employees must remain in contact with supervisors, monitor media outlets for updates, and check any designated hotline or website for closure and return to duty information.</p> <p>Regardless of Non-Essential designation, any and all Fort Bend County employees may be called upon to perform duties during a Declared Emergency, including during times of an Emergency Closure. The duties may be the same, different, or in addition to, the duties performed during non-emergency times and may be performed remotely or at alternate locations.</p> <p>Non-Essential Employees cannot be disciplined for participating in an Emergency Evacuation Order if one is issued. However, Non-Essential Employees must return to duty when the Emergency Evacuation Order is lifted and the employee is recalled to duty.</p> <p>Except where a Non-Essential Employee is not available to report to work due to participation in an Emergency Evacuation Order, Non-Essential employees who fail to work as assigned during a Declared Emergency, including during an Emergency Closure, must provide a valid reason for failure to report to work, supported by documentation if requested. Valid reasons may include injury or illness, immobility due to disaster conditions, or family care responsibilities that, due to disaster conditions, cannot be mitigated. Absent a valid excuse and documentation if requested, an employee may not be eligible for Emergency Closure Pay for the period of time not worked as required and may be subject to disciplinary action, up to and including termination of employment.</p>

<p>Section 413.08 Pay Procedures During a Declared Emergency</p>	<p>Response to a Declared Emergency may require work weeks in excess of forty (40) hours. Overtime hours worked in response to the Declared Emergency will be handled as follows:</p> <p>Non-Exempt Employees: Non-exempt employees accrue compensatory time or are paid overtime in accordance with County policy and the Fair Labor Standards Act. Commissioners Court may authorize, by written order, payout of non-exempt compensatory time earned for workhours dedicated to Emergency Protective Measures during a Declared Emergency. If payout is not authorized, non-exempt employees may carry the accrued balance from year to year and utilize the accrued compensatory time in accordance with department policy. Non-exempt employees are entitled to payment of unused accrued compensatory time at separation of employment in accordance with the Fair Labor Standards Act.</p> <p>Exempt Employees: Exempt employees are not entitled to overtime or compensatory time for hours worked. Notwithstanding this exemption, Commissioners Court may authorize, by written order, accrual of hour for hour exempt compensatory time by exempt employees for hours worked over 40 per workweek, for workhours dedicated to Emergency Protective Measures during a declared emergency. Commissioners Court may also authorize, by written order, payout of exempt employee compensatory time, or authorize carry-forward of accrued balances for use as paid leave for any specified period. If payout is not authorized by Commissioners Court, accrued balances are not payable at separation of employment or reclassification to a non-exempt position.</p> <p>Time-Keeping Requirement: Time worked in response to an emergency situation must be accurately recorded in order for the County to assess the cost of the response and potentially seek reimbursement for such costs. Therefore, during a Declared Emergency, all County employees, <u>including exempt employees</u>, must clock in and out by using the time keeping system in accordance with procedures designated by the Payroll Office and County Auditor. Employees may also be required to complete other documentation regarding time worked and resources used during an emergency, and specific instructions will be provided as needed.</p>
<p>Section 413.09 Shifts, On-Call, and Shelter in Place Requirements During a Declared Emergency</p>	<p>Shift schedules before, during, and in the aftermath of a disaster will be established according to the departmental needs in order to ensure an appropriate emergency response. Such shifts may differ from the shifts typically worked in non-emergency times.</p> <p>The following provisions regarding work hours and on call time shall apply:</p> <ol style="list-style-type: none"> 1. Employees who are permitted to leave the work place between shifts, but are required to be available to be called to duty as needed are considered to be on call. . If recalled to work, the employee will be paid for all hours spent working, but the on call hours not spent working will not be compensated.

	<p>2. Employees may be ordered to shelter in place at County designated facilities in order to ensure they are available to be called to duty as needed. Hours spent under these circumstances will be considered work hours. Eight (8) hours per 24-hour period may not be considered work hours provided that all of the following conditions are met:</p> <ul style="list-style-type: none"> a. An employee is required to be at the designated County facility for 24 hours or more; and, b. Employees are provided with adequate sleeping facilities; and, c. Employees are provided with a minimum of eight (8) consecutive hours during the 24-hour period in which they are not called to duty. If eight (8) consecutive hours in a 24-hour period are not provided, all 24 hours must be considered hours worked.² <p>3. If an employee is not ordered to shelter in place at a County designated facility, but chooses to do so due to their own personal circumstances, the employee will not be paid for any hours in which they are completely relieved from duty.</p>
<p>Section 413.10 Emergency Shelters</p>	<p>Fort Bend County may provide temporary emergency shelter facilities for County employees if disaster conditions or an Emergency Evacuation Order dictate that employees may need such shelter in order to remain safely available for duty. The shelters may also be available to the dependents of County employees. While housed at these facilities, County employees may pursue personal activities and are not considered to be working, nor under an order to shelter in place.</p>
<p>Section 413.11 Emergency Closure Pay</p>	<p>Full-time Essential and Non-Essential Employees who are not required to work on an otherwise regularly scheduled workday due to an Emergency Closure may receive Emergency Closure Pay for regularly scheduled hours at their regular rate of pay, except that Emergency Closure Pay shall not exceed 40 hours per workweek per employee regardless of scheduled hours. For an Emergency Closure that does not exceed 14 calendar days, Emergency Closure Pay shall continue for the duration of the close, unless Commissioners Court orders an earlier termination of Emergency Closure Pay. If disaster conditions persist longer than 14 calendar days and result in continued closure of County offices or facilities, Commissioners Court may approve continued payment of Emergency Closure Pay for a duration to be determined by Commissioners Court. Emergency Closure Pay is not considered hours worked for purposes of overtime compensation.</p> <p>If not called to duty, Essential and Non-Essential full-time employees who remain on vacation or leave during an Emergency Closure will be required to use accrued leave and will not be granted Emergency Closure Pay. A Department Head or Elected Official may approve payment of Emergency Closure Pay in lieu of use of accrued leave if disaster conditions are such</p>

² 29 CFR Sec. 785.21-22

	<p>that the employee is not able to use the time off as planned and is otherwise available to work.</p> <p>If Commissioners Court terminates or fails to extend payment of Emergency Closure Pay for the duration of an Emergency Closure, employees will be required to use accrued vacation, compensatory time, and deferred leave. Commissioners Court may also authorize the use of accrued sick leave for absences due to an extended emergency closure. If an employee exhausts all accrued leave, remaining leave will be without pay.</p> <p>Extended periods of leave without pay may have implications for employee benefits as set forth in Section 413.12.</p>
<p>Section 413.12 Provisions for Continuation of Benefits During Extended Emergency Closure</p>	<p>In the event that Emergency Closure Pay is not extended for the duration of an Emergency Closure, an employee may experience a period of Leave Without Pay (LWOP) if accrued leave is exhausted. Periods of LWOP may impact employee benefits as follows:</p> <ol style="list-style-type: none"> 1. The period of LWOP will not be considered a break in service or employment. 2. Vacation and sick leave will not be accrued for any full pay period of LWOP. 3. Longevity payments will not be made for any full pay period of LWOP. 4. Service time for vesting with Texas County and District Retirement System will not be earned for any month in which no deposit is made to an account due to LWOP. 5. County funded employee Life Insurance coverage will continue for up to twelve (12) months during periods of LWOP. 6. Medical and dental benefit premiums will be payable during a period of LWOP, but in the event Commissioners Court authorizes the Director of Risk Management to suspend termination of benefits for non-payment due to LWOP resulting from an Emergency Closure, the below shall apply: <ol style="list-style-type: none"> a. All unpaid premiums must be paid upon return to duty in accordance with Risk Management procedures and/or Commissioners Court action. b. An employee who terminates employment for any reason during an Emergency Closure must immediately remit payment for any unpaid premiums. c. Failure to remit payment of premiums as required may result in termination of benefits and denial of claims. 7. Premiums for optional benefits must be remitted during LWOP. The County will not advance payment of optional benefits, and non-payment may result in suspension of benefits. 8. An employee who chooses to retire during an Emergency Closure must notify the Risk Management Department on or before the retirement date in order to comply with Section 511- Continuation of Health Benefits upon Retirement.

<p>Section 413.13 Emergency Closure Response Stipend</p>	<p>During times of a Declared Emergency, when any or all County offices and facilities are closed under an Emergency Closure order, the County shall provide an Emergency Closure Response Stipend (ECRS) to Essential and Non-Essential Employees who are authorized and required to perform duties dedicated to Emergency Protective Measures.</p> <p>The ECRS shall equal \$6.00 per hour and shall be paid in addition to the employee's regular hourly rate for those workhours dedicated to Emergency Protective Measures.</p> <p>Both Essential and Non-Essential full-time employees in exempt and non-exempt classified positions, shall be eligible for the ECRS, but only for those workhours dedicated to Emergency Protective Measures to protect lives and property during an Emergency Closure due to a Declared Emergency. The employee's Department Head or Elected Official must certify that the ECRS hours submitted meet the standard of Emergency Protective Measures, and the submitted hours are also subject to review and approval by the County Auditor, and the final review and approval by Commissioners Court.</p> <p>Employees who work from home are not eligible for the ECRS, but may be eligible for either regular pay or Emergency Closure Pay depending on hours they actually work.</p> <p>The ECRS shall be in effect only for the duration of an Emergency Closure while employees who are not working are receiving Emergency Closure Pay.</p>
<p>Section 413.14 Responsibilities of County Officials and Employees</p>	<p>Acting to assist in the preservation and restoration of essential public services required for the health, safety, and quality of life for Fort Bend County citizens is the responsibility of all Fort Bend County officials and employees. The foregoing is a non-exhaustive list of individual responsibilities under this policy to ensure an appropriate response to emergencies in our community.</p> <p>Responsibility of Department Heads and Elected Officials:</p> <ol style="list-style-type: none"> 1. Ensure measures are in place to meet the statutory requirements of the Office or Department in the event of a Declared Emergency by preparing and implementing a Continuity of Operations Plan (COOP). 2. Assign a designation of Essential and Non-Essential to each employee and ensure employees are aware of their responsibilities to respond in an emergency. 3. Assign Essential and Non-Essential employees to work in response to a Declared Emergency when called upon by the County Judge or his/her designee. 4. Apply this policy in a non-discriminatory manner and provide reasonable accommodation where required. 5. Maintain communication with subordinates throughout the emergency situation.

	<p>Responsibility of Supervisors:</p> <ol style="list-style-type: none"> 1. Ensure accurate time records are kept for employees using the timekeeping system, as well as any other documentation required. 2. Monitor subordinate’s compliance with the policy. 3. Provide support and direction for employees during an emergency situation. 4. Apply this policy in a non-discriminatory manner and provide reasonable accommodation where required. 5. Communicate closure, assignment, and return to duty information with employees. <p>Responsibility of Employees:</p> <ol style="list-style-type: none"> 1. Comply with this and all County policies. 2. Maintain accurate records of hours worked, and any other documentation required during an emergency situation. 3. Remain in contact with supervisor, and stay abreast of assignment and return to duty information. 4. Respond to assignments in a timely manner and return to duty when notified to do so. 5. Notify supervisor of any illness, injury, or other circumstance for which a reasonable accommodation may be needed, or that may preclude you from fulfilling the requirements of this policy
<p>Section 413.15 Other Official Closures</p>	<p>The County Judge or Commissioners Court may order the official closure of County Offices or facilities in circumstances other than a disaster or emergency, including but not limited to, inclement weather, National Day of Mourning, or a power, water, or mechanical failure resulting in unsafe conditions. Unless otherwise ordered by the County Judge or Commissioners Court, the provisions for staffing and Emergency Closure Pay shall apply, but not the Emergency Closure Response Stipend. Closure of County Offices or facility by any other official shall not invoke Emergency Closure Pay.</p>
<p>Section 413.16 Employment at Will</p>	<p>Texas is an “Employment At-Will” state, and nothing in this policy shall be construed to limit an employee’s at-will status. Employees shall retain the right to terminate employment at any time. Fort Bend County retains the right to terminate your employment at any time, with or without notice, for any legal reason or no reason. The County also retains the right to change any terms, conditions, benefits, or privileges of employment at any time without notice. No employment contract, either expressed or implied, shall exist between the County and any employee for any duration, either specified or non-specified.</p>

Policy Approved and Adopted By
Fort Bend County Commissioners Court
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Revised: March 24, 2020
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