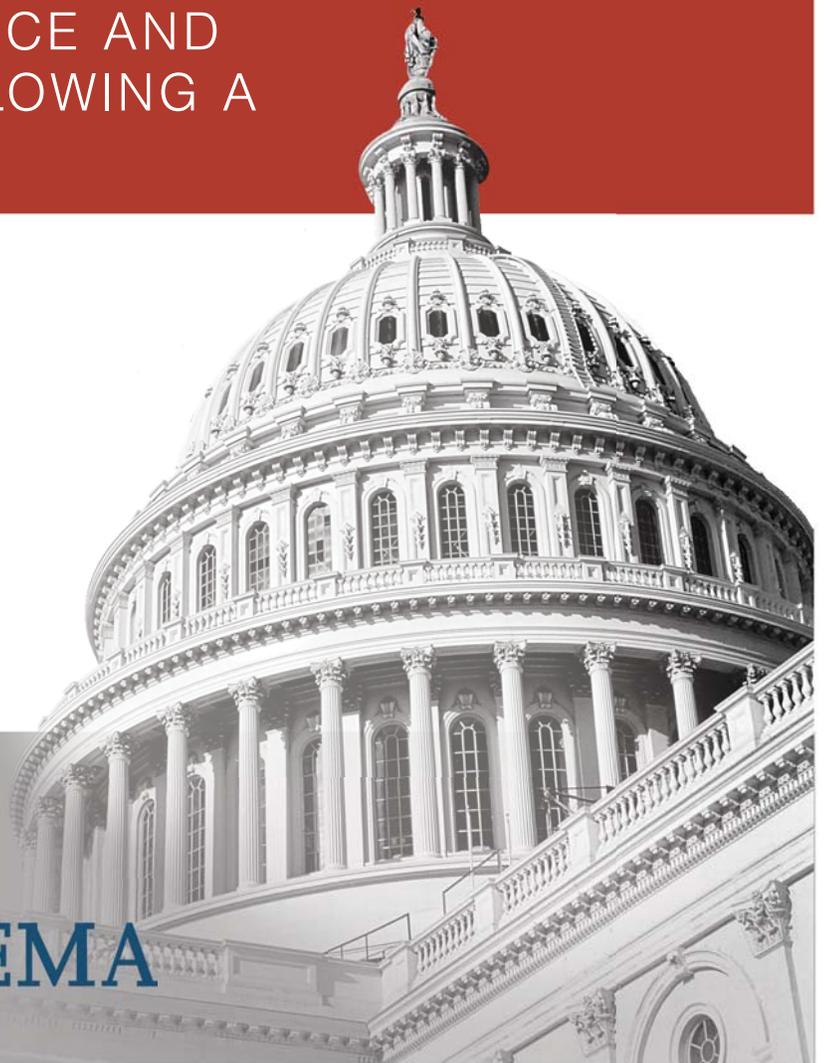


# CSEPP

CHEMICAL STOCKPILE EMERGENCY PREPAREDNESS PROGRAM

## GUIDE FOR ASSISTANCE AND COMPENSATION FOLLOWING A CHEMICAL EVENT



**FEMA**

Prepared for the Chemical Stockpile Emergency Preparedness Program  
by  
Argonne National Laboratory Decision and Information Sciences Division  
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# INTRODUCTION

The purpose of the **Guide for Assistance and Compensation Following a Chemical Event** is to provide a resource on how to seek federal assistance to those who might experience injury or loss in the unlikely event of a release of chemical weapons agent from one of the storage installations in the continental United States. This guide was developed as a result of emergency exercises indicating that preparedness will be enhanced if an inventory of possible federal resources is available. The guide is provided for informational purposes only and is not intended as legal advice.

The guide consists of four parts. The first part is a multi-page table that identifies the type of federal financial assistance or compensation that may be available (as of the date of publication). This table is organized by compensation seeker:

- Individuals;
- Businesses;
- Farms and ranches; and
- Governments (local, state, or Indian Tribes).

The table provides information on the specific assistance or compensation that may be available, the federal agency having responsibility for handling requests, and the federal program under which the specific assistance or compensation is available. This structure is intended to enable users to find available federal assistance and types of compensation for their injury or loss as quickly and specifically as possible. Users should contact their state governments, local governments, insurance companies, charities, and other organizations in their communities to determine whether additional, non-federal resources also might be available.

The second part of this guide is a narrative description of each program under which assistance or compensation may be available. Each narrative section includes the source of the program's authority under

federal law; the responsible federal agency; its request deadlines; methods for requesting assistance or compensation; compensable items; compensation limits; published processing time; and additional information. Ambiguities in the information about various forms of assistance and types of compensation reflect the fact that the laws creating these programs often are subject to interpretation. Users who may consider requesting assistance or compensation under any of these programs are strongly urged to contact the responsible federal agency or to consult their own attorney to make sure that they understand all of the current requirements and procedures that apply to their individual situations.

The third part of this guide lists the acronyms and abbreviations that are used in it.

The fourth part of this guide lists statutes, regulations, cases, guidebooks, and other information sources that may be useful to compensation seekers or their attorneys.

This guide was developed by a team of U.S. Army and Federal Emergency Management Agency staff assigned to the Chemical Stockpile Emergency Preparedness (CSEP) Program. It has been reviewed informally by state and local emergency managers in communities involved in the CSEP Program. Please report any errors or omissions to:

Chief, Chemical Stockpile Emergency Preparedness Program  
U.S. Army Chemical Materials Agency  
Building E-1946 (AMSSB-OCS)  
5183 Blackhawk Road  
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<i>Type of Assistance</i>	<i>Specific Assistance or Compensation</i>	<i>Responsible Agency</i>	<i>Federal Program</i>	<i>See for Details:</i>
<b>INDIVIDUALS</b>				
Temporary Lodging	Hotel/motel costs, or rental costs if longer displacement	FEMA	IHP Temp Housing	<a href="#">Section 1, page 1</a>
	Temporary lodging costs	Army	CERCLA	<a href="#">Section 10, page 4</a>
Medical Expenses	Medical/dental expenses resulting from disaster	FEMA	IHP Other Needs	<a href="#">Section 2, page 1</a>
Property Damage	Grant for repair/replacement of primary residence up to \$28,800	FEMA	IHP Temp Housing	<a href="#">Section 1, page 1</a>
	Grant for replacement of personal property, including vehicles	FEMA	IHP Other Needs	<a href="#">Section 2, page 1</a>
	Damaged real property	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Lost, damaged, or unrepairable personal property	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Loss of use of property	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Towing and storage charges	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Loss of business or profits	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Overhead	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Special situations, such as damage to crops, timberland, soil, trees, and animals	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Low-interest, fixed-rate loan for repair or replacement of primary residence and personal property	SBA	Disaster Loan Program – Home Loans	<a href="#">Section 3, page 1</a>
Injury or Death	Personal injury	Army	Claims Service	<a href="#">Section 12, page 5</a>
	Wrongful death	Army	Claims Service	<a href="#">Section 12, page 5</a>
Other Assistance	Miscellaneous expenses, including funeral, transportation, moving and storage	FEMA	IHP Other Needs	<a href="#">Section 2, page 1</a>
	Expanded unemployment benefits	FEMA, Dept. of Labor	Disaster Unemployment	<a href="#">Section 5, page 2</a>
	Legal services	FEMA	Stafford Act	<a href="#">Section 6, page 2</a>
	Crisis counseling	FEMA	Stafford Act	<a href="#">Section 6, page 2</a>
	Help with receiving Social Security benefits	SSA	(See FEMA Individuals & Households Program Guide)	<a href="#">Section 17, page 7</a>
	Help with receiving veterans benefits	VA	(See FEMA guide)	<a href="#">Section 17, page 7</a>
	Tax deadline relief (delay filing without penalty)	IRS	(See FEMA guide)	<a href="#">Section 17, page 7</a>
	Early withdrawal of savings (withdraw from certificate accounts without penalty)	financial institutions	(See FEMA guide)	<a href="#">Section 17, page 7</a>

<i>Type of Assistance</i>	<i>Specific Assistance or Compensation</i>	<i>Responsible Agency</i>	<i>Federal Program</i>	<i>See for Details:</i>
<b>BUSINESSES</b>				
Cleanup Costs	Debris removal	FEMA	Public Assistance Grants	<a href="#">Section 7, page 3</a>
	Other necessary cleanup costs	Army	CERCLA	<a href="#">Section 10, page 4</a>
Property Damage	Repair, restoration, reconstruction, or replacement of damaged public facilities for certain nonprofits that provide essential services	FEMA	Public Assistance Grants	<a href="#">Section 7, page 3</a>
	Damaged real property	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Lost, damaged, or unrepairable personal property	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Loss of use of property	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Towing and storage charges	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Loss of business or profits	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Overhead	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Special situations, such as damage to crops, timberland, soil, trees, and animals	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Low-interest, fixed-rate loan for repair or replacement of damaged business property	SBA	Physical Disaster Business Loan	<a href="#">Section 4, page 2</a>
Economic Assistance	Low-interest, fixed-rate loan to provide working capital for a business economically injured by the disaster	SBA	Economic Injury Business Loan	<a href="#">Section 4, page 2</a>
Other	Other necessary costs of response at site of release of hazardous substance	Army	CERCLA	<a href="#">Section 10, page 4</a>
	Tax deadline relief (delay filing without penalty)	IRS	Other Assistance	<a href="#">Section 17, page 7</a>
	Early withdrawal of savings (withdraw from certificate accounts without penalty)	financial institutions	Other Assistance	<a href="#">Section 17, page 7</a>
	Costs of emergency protective measures for certain nonprofits that provide essential services	FEMA	Public Assistance Grants	<a href="#">Section 7, page 3</a>
	Cost of mitigation measures to prevent recurrence in the future for certain nonprofits that provide essential services	FEMA	Public Assistance Grants	<a href="#">Section 7, page 3</a>

<i>Type of Assistance</i>	<i>Specific Assistance or Compensation</i>	<i>Responsible Agency</i>	<i>Federal Program</i>	<i>See for Details:</i>
<b>FARMS AND RANCHES</b>				
Property Damage	Damaged real property	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Lost, damaged, or unrepairable personal property	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Loss of use of property	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Towing and storage charges	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Loss of business or profits	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Overhead	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Special situations, such as damage to crops, timberland, soil, trees, and animals	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Low-interest fixed-rate loan to repair, restore, or replace damaged or destroyed farm property and supplies	USDA/FSA	Emergency Farm Loans	<a href="#">Section 9, page 3</a>
Economic Assistance	Insured crop losses	USDA	Federal Crop Insurance Corporation	<a href="#">Section 14, page 6</a>
	Noninsured crop losses	USDA/FSA	Noninsured Crop Disaster Assistance Program	<a href="#">Section 15, page 6</a>
	Grazing losses	USDA/FSA	Livestock Forage Disaster Program	<a href="#">Section 16, page 6</a>
	Low-interest fixed-rate loan to maintain farm operations on a sound financial basis	USDA/FSA	Emergency Farm Loans	<a href="#">Section 9, page 3</a>
<b>GOVERNMENT — State, Tribal, Local</b>				
Emergency Response Costs	Emergency protective measures, including National Guard mobilization	FEMA	Public Assistance Grants	<a href="#">Section 7, page 4</a>
	Debris removal	FEMA	Public Assistance Grants	<a href="#">Section 7, page 3</a>
	Costs incurred in performing temporary emergency response	Army/EPA	CERCLA	<a href="#">Section 13, page 5</a>
Cleanup and Remediation Costs	Cost of removal or remedial action	Army	CERCLA	<a href="#">Section 10, page 4</a>
	Other necessary cleanup costs	Army	CERCLA	<a href="#">Section 10, page 4</a>
Property Damage	Repair, restoration, reconstruction, or replacement of damaged public facilities	FEMA	Public Assistance Grants	<a href="#">Section 7, page 3</a>
	Damage to natural resources	Army	CERCLA	<a href="#">Section 10, page 4</a>
	Damaged real property (buildings)	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Lost, damaged, or unrepairable personal property (equipment)	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Loss of use of property	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Towing and storage charges	Army	Claims Service	<a href="#">Section 11, page 4</a>
<i>Continued on next page</i>				

<b>Type of Assistance</b>	<b>Specific Assistance or Compensation</b>	<b>Responsible Agency</b>	<b>Federal Program</b>	<b>See for Details:</b>
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**GOVERNMENT — State, Tribal, Local**

<i>Continued from previous page</i>				
Property Damage	Loss of business or profits	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Overhead	Army	Claims Service	<a href="#">Section 11, page 4</a>
	Special situations, such as damage to crops, timberland, soil, trees, and animals	Army	Claims Service	<a href="#">Section 11, page 4</a>
Other Assistance	Loss of tax revenue (property tax, sales tax, etc.)	FEMA	Community Disaster Loan	<a href="#">Section 8, page 3</a>
	Cost of mitigation measures to prevent recurrence in the future	FEMA	Public Assistance Grants	<a href="#">Section 7, page 3</a>
	Cost of crisis counseling	FEMA	Other Assistance	<a href="#">Section 6, page 2</a>

# FEDERAL ASSISTANCE AND COMPENSATION PROGRAMS

## 1. Program: Individual and Households Program (IHP) – Temporary Housing

**Legal Authority:** Stafford Act, 42 U.S.C. § 5121 et seq. Regulations at 44 C.F.R. §§ 206.110-120.

**Responsible Agency:** Federal Emergency Management Agency (FEMA)

**Compensable Items:** Cost of temporary lodging expenses (hotel or motel). If displaced for longer period, cost of rental accommodations. FEMA may provide temporary lodging directly, or else compensate household for expense of renting. Program can also cover cost of repair/replacement for primary residence.

**Compensation Limits:** Maximum of \$28,800 per household (adjusted annually for inflation).

**Request Deadline:** Generally 60 days; can be extended if a state requests it.

**Request Method:** Register through FEMA hotline or online, or visit Disaster Recovery Center; receive registration number.

**Processing Time:** Approximately 20 days according to FEMA guidebook, Help After a Disaster – Applicant’s Guide to the Individuals & Households Program, FEMA, August 2005.

**Additional Information:** Must be Presidentially-declared emergency or disaster. Losses must be NOT covered by insurance. Generally limited to 18 months duration unless extended.

## 2. Program: Individual and Households Program (IHP) – Other Needs Assistance

**Legal Authority:** Stafford Act, 42 U.S.C. §§ 5121 et seq. Regulations at 44 C.F.R. §§ 206.110-120.

**Responsible Agency:** Federal Emergency Management Agency (FEMA)

**Compensable Items:** Disaster-related expenses, including medical, dental, funeral, transportation, moving and storage, and damage to personal property including vehicles. Can include other expenses to meet serious needs on a case-by-case basis.

**Compensation Limits:** Maximum of \$28,800 per household (adjusted annually for inflation). (Note: this is a total limit for all IHP assistance including housing assistance.)

**Request Deadline:** Generally 60 days; can be extended if a state requests it.

**Request Method:** Register through FEMA hotline or online, or visit Disaster Recovery Center; receive registration number.

**Processing Time:** Generally 7 to 21 days per U.S. General Services Administration (GSA) Catalog of Federal Domestic Assistance (CFDA).

**Additional Information:** General references: 44 C.F.R. § 206; must be Presidentially-declared emergency or disaster. Losses must be NOT covered by insurance.

## 3. Program: Disaster Loan Program – Home Loans

**Legal Authority:** Small Business Act, 15 U.S.C. § 636(b), (c), and (f). Regulations at 13 C.F.R. § 123.

**Responsible Agency:** U.S. Department of Commerce Small Business Administration (SBA)

**Compensable Items:** Low-interest, fixed-rate loan for repair or replacement of real and personal property. Real property must be primary residence.

**Compensation Limits:** The maximum real estate portion of the loan is \$200,000 and for personal property is \$40,000. The loan amount is limited to the amount of uninsured SBA-verified losses. Limits can be expanded up to 20% to incorporate mitigation measures.

**Request Deadline:** Generally within 60 days of disaster declaration, but SBA can extend.

**Request Method:** First, obtain FEMA registration number through FEMA hotline/online process. Then, complete loan application form and submit to SBA.

**Processing Time:** Generally, approval decision within 7 to 21 days depending on complexity of case and availability of resources.

**Additional Information:** Requires Major Disaster declaration by President or Physical Disaster declaration by SBA Administrator.

#### 4. Program: Disaster Loan Program – Business Loans

**Legal Authority:** Small Business Act, 15 U.S.C. § 636(b), (c), and (f). Regulations at 13 C.F.R. § 123.

**Responsible Agency:** U.S. Department of Commerce Small Business Administration (SBA)

**Compensable Items:** Low-interest, fixed-rate loan for repair or replacement of damaged business property (Physical Disaster Business Loan) and/or to provide working capital for a business economically injured by the disaster (Economic Injury Business Loan).

**Compensation Limits:** \$1.5 million (may be waived if business is major employer).

**Request Deadline:** Generally within 60 days of disaster declaration, but SBA can extend.

**Request Method:** Complete loan application form and submit to SBA.

**Processing Time:** Generally approval decision within 7 to 21 days depending on complexity of case and availability of resources.

**Additional Information:** Requires Major Disaster declaration by President or Physical Disaster declaration by SBA Administrator. Virtually any business in the disaster area may be eligible for Physical Disaster Business Loan; only small businesses are eligible for Economic Injury Business Loans. Farms are not eligible; they are covered by another program.

#### 5. Program: State Disaster Unemployment Benefits

**Legal Authority:** Stafford Act, 42 U.S.C. § 5177. Regulations at 44 C.F.R. §§ 206.8, 206.141; 20 C.F.R. § 625.

**Responsible Agency:** State Labor Department, U.S. Department of Labor, Federal Emergency Management Agency (FEMA)

**Compensable Items:** Unemployment due to disaster that is not otherwise compensable through regular unemployment insurance. Applies to some persons not normally eligible for unemployment benefits (e.g., self-employed).

**Compensation Limits:** Maximum of 26 weeks of benefits.

**Request Deadline:** Generally within 30 days of disaster declaration.

**Request Method:** Apply through state Department of Labor. Funds are allocated from the President's Disaster Relief Fund and FEMA transfers funding to the state Department of Labor for use in designated major disaster areas declared for Disaster Unemployment Assistance (DUA).

**Processing Time:** Normally within one to two weeks per U.S. General Services Administration (GSA) Catalog of Federal Domestic Assistance (CFDA).

**Additional Information:** Funding is provided by FEMA; standards are set by U.S. Department of Labor; program generally administered by state Department of Labor.

#### 6. Program: Legal Services & Counseling

**Legal Authority:** Stafford Act, 42 U.S.C. §§ 5182-5183. Regulations at 44 C.F.R. §§ 206.164, 206.171.

**Responsible Agency:** Federal Emergency Management Agency (FEMA)

**Compensable Items:** This is not a program providing direct assistance to individuals; states apply for funding/assistance. Legal services, including legal advice, counseling, and representation in non-fee-generating cases, provided at no charge for low-income individuals requiring legal services as a result of disaster, except as provided in 44 C.F.R. § 206.164(b). Crisis counseling services provided at no charge for disaster victims.

**Compensation Limits:** not specified in regulations

**Request Deadline:** not specified

**Request Method:** Under the Immediate Services Crisis Counseling Program, applications are reviewed by FEMA program staff in consultation with the Substance Abuse and Mental Health Services Administration (SAMHSA). Grant award is provided by FEMA to the state Emergency Management Agency. Under the Regular Services

Crisis Counseling Program (longer-term counseling program), applications are reviewed by FEMA with formal recommendation from SAMHSA. Grant funds are provided by FEMA to SAMHSA for award to the state's mental health agency.

**Processing Time:** no data available

**Additional Information:** The Crisis Counseling Assistance and Training Program (CCP) is designed to provide supplemental funding to states for technical assistance and training, as well as short-term crisis counseling services to people affected by the disaster. CCP services involve the counseling goals of assisting disaster survivors in understanding their current situations and reactions, mitigating additional stress, assisting survivors in reviewing their options, promoting the use or development of coping strategies, providing emotional support and encouraging linkages with other individuals and agencies who may help survivors recover to their pre-disaster level of functioning. Fee-generating cases (i.e., part of a settlement awarded by the court) shall not be accepted by lawyers operating under these regulations and will be referred by the Regional Administrator through existing lawyer referral services.

## 7. Program: Public Assistance Grants

**Legal Authority:** Stafford Act, 42 U.S.C. § 5172. Regulations at 44 C.F.R. §§ 206.200-206.253.

**Responsible Agency:** Federal Emergency Management Agency (FEMA)

**Compensable Items:** Repair, restoration, reconstruction, or replacement of damaged public facilities. Cost of debris removal. Cost of mitigation measures to prevent recurrence in the future. Cost of emergency protective measures, including National Guard mobilization.

**Compensation Limits:** \$20 million per entity; above that, President must justify to Congress.

**Request Deadline:** Within 30 days of Presidential declaration of disaster or emergency.

**Request Method:** Application for Public Assistance through the Governor's Authorized Representative to the Regional Director of

FEMA. Funds are allocated from the President's Disaster Relief Fund for use in a designated emergency or major disaster area. The FEMA Regional Director approves grants from this allocation on the basis of project applications for eligible applicants.

**Processing Time:** Up to six weeks per U.S. General Services Administration (GSA) Catalog of Federal Domestic Assistance (CFDA).

**Additional Information:** This type of assistance limited to public entities (state agencies and local units of government) and nonprofits that provide "critical services" (utilities, emergency medical services, and education). Grant awards will be determined in accordance with OMB Circulars No. A-102 and No. A-87 for states, local governments and Indian Tribes. Awards made to institutions of higher education, hospitals and other non-profit organizations must follow the requirements of OMB Circulars No. A-110 and No. A-21. See also guidebooks, "Public Assistance Guide," FEMA 322 (formerly FEMA 286); "Public Assistance Policy Digest," FEMA 321; and "Public Assistance Applicant Handbook," FEMA 323.

## 8. Program: Stafford Act – Community Disaster Loans

**Legal Authority:** Stafford Act, 42 U.S.C. § 5184. Regulations at 44 C.F.R. §§ 206.360–206.367.

**Responsible Agency:** Federal Emergency Management Agency (FEMA)

**Compensable Items:** Loss of tax revenue due to disaster.

**Compensation Limits:** 25% of annual operating budget, but if disaster caused revenue drop of 75%, then limit raised to 50% of annual operating budget; capped at \$5 million either way.

**Request Deadline:** The loan must be approved in the fiscal year of the disaster or the fiscal year immediately following.

**Request Method:** Upon declaration of a major disaster, application for a Community Disaster Loan is made through the Governor's

Authorized Representative to the FEMA Regional Director. The Assistant Administrator of the Disaster Assistance Directorate approves or disapproves the loan. The Designated Loan Officer will execute a promissory note with the applicant. The promissory note must be co-signed by the State, or if the State cannot legally co-sign the note, the local government must pledge collateral security.

**Processing Time:** From one to six months per U.S. General Services Administration (GSA) Catalog of Federal Domestic Assistance (CFDA).

**Additional Information:** This type of assistance limited to local governments and other eligible jurisdictions. Must demonstrate a substantial tax loss and a need for financial assistance to perform governmental functions. Repayment of loan shall be canceled to the extent future revenues continue to fall short of operating expenses.

## 9. Program: Emergency Farm Loans

**Legal Authority:** Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. §§ 1961-1984. Regulations at 7 C.F.R. § 764.

**Responsible Agency:** United States Department of Agriculture (USDA) Farm Service Agency (FSA)

**Compensable Items:** Low-interest fixed-rate loan to repair, restore, or replace damaged or destroyed farm property (real and chattel) and supplies, or to restore or maintain applicants' operations on a sound financial basis.

**Compensation Limits:** Up to \$500,000.

**Request Deadline:** Deadline for filing applications for actual loss loans is eight months from the date of declaration/designation for both physical and production losses.

**Request Method:** Application Form FSA 410-1 provided by the FSA

must be presented, with supporting information, to the FSA county office serving the applicant's county. FSA personnel assist applicants in completing their application forms. FSA Farm Loan Manager, State Executive Directors, and the Administrator or his designee is authorized to approve these loans, subject to certain administrative requirements, after applicants are determined eligible.

**Processing Time:** Applications must be approved or disapproved within 60 calendar days after the receipt of a completed application by the County Office.

**Additional Information:** Aimed at family farmers and ranchers. Must own or operate land located in a county declared by the President as a disaster area or designated by the Secretary of Agriculture as a disaster area or quarantine area (for physical losses only, the FSA Administrator may authorize emergency loan assistance).

## 10. Program: Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

**Legal Authority:** Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq. [hereinafter CERCLA]; CERCLA § 107(a)(4)(B).

**Responsible Agency:** U.S. Army Claims Service at installation at which hazardous substance release occurred; U.S. Environmental Protection Agency

**Compensable Items:** Costs of removal or remedial action at site of hazardous substance release. Damages for injury to, destruction of, or loss of natural resources from a hazardous substance release. Any other necessary costs of response at site of release of hazardous substance not covered elsewhere under CERCLA. Attorney's fees may not be compensable, and it is unclear what else may not be compensable.

**Compensation Limits:** None

**Request Deadline:** All administrative remedies should be explored and exhausted before filing suit. If removal action, then suit must be filed within three years after its completion. If remedial action begins

within three years of completing a removal action, plaintiff may recover removal costs at the time of recovery of any remedial costs; suit must be filed within six years after initiation of physical on-site construction of the remedial action.

**Request Method:** If administrative remedies have been exhausted without satisfaction, file suit in the federal district court where the release or damages occurred, or in which the defendant resides, may be found, or has his/her principal office.

**Processing Time:** Lawsuits based on CERCLA are extremely complex and uncertain, and the amount of time required to decide a case is unclear.

**Additional Information:** Costs must be consistent with the National Contingency Plan. Compensation for costs of removal and remedial action and damages related to natural resources is available to state governments and Indian Tribes. Compensation for damage to natural resources is available to designated state or Indian Tribe natural resource trustees. Compensation for other necessary costs of response is not available to state governments and Indian Tribes.

## 11. Program: U.S. Army Claims Service

**Legal Authority:** Federal Tort Claims Act (FTCA), 60 Stat. 842, 28 U.S.C. §§ 2671-2680, as amended; Military Claims Act (MCA), 70A Stat. 153, 10 U.S.C. § 2733, as amended. Regulations at U.S. Department of Army, Reg. 27-20 (hereinafter AR 27-20). U.S. Department of Army, Pamphlet 27-162, Claims Procedures (March 21, 2008) (hereinafter DA PAM 27-162).

**Responsible Agency:** U.S. Army Claims Service

**Compensable Items:** Damaged real property. Lost, damaged, or economically unrepairable personal property. Loss of use of property. Towing and storage charges. Loss of business or profits. Overhead. Special situations, such as loss of or damage to annual crops, perennial crops, timberland (excluding tree plantations), turf and soil, domestic animals and fowl, and shade trees. No consequential, punitive, or exemplary damages or costs of preparing, filing, and pursuing a claim are payable. Claims limited to damage to tangible property and costs directly related thereto.

**Compensation Limits:** None

**Request Deadline:** Claims must be made no later than two years from the date of awareness of injury and its cause. Denials or final offers on claims under the MCA may be appealed within 60 days or an approved extension thereof. If denial or final offer on claim under the MCA is upheld on appeal, claimant must accept the award within 180 days of date of mailing or claim will be deemed denied. Request for reconsideration under the FTCA must be made within six months of the notice of denial or final offer.

**Request Method:** File a Standard Form (SF) 95 with the U.S. Army Claims Service. If a tort under applicable state law and final action is unsatisfactory, may file lawsuit in U.S. District Court within six months of unsatisfactory decision by the U.S. Army Claims Service.

**Processing Time:** Higher claim values require review at higher levels. Because of settlement authority, lower-valued claims may be settled more quickly.

**Additional Information:** Claim may be made by owner of the property or a duly authorized agent or legal representative in the owner's name. For real property damage, the mortgagor, mortgagee, executor, administrator, or personal representative is included as "owner." For lost, damaged or economically unrepairable personal property, a bailee, lessee, mortgagee, conditional vendor, or others holding title for purposes of security only is included as "owner."

May arise from official non-combat activities. Must claim the total amount ("sum certain") on SF-95. Acceptance of settlement is final and releases U.S. Government and its employees from all liability. Cannot file suit for money damages under the FTCA until final denial of claim by the appropriate Federal agency. If a tort under applicable state law, requires proof of negligence or of wrongful act or omission by the U.S. Government or its employees acting within scope of employment. If not a tort, requires only causation by military personnel or civilian employees (except non-federalized Army National Guard [ARNG]) acting within scope of employment. Attorney's fees are taken from and limited to 20% of claim settlement or 25% of any judgment.

## 12. Program: U.S. Army Claims Service

**Legal Authority:** Federal Tort Claims Act (FTCA), 60 Stat. 842, 28 U.S.C. §§ 2671-2680, as amended; Military Claims Act (MCA), 70A Stat. 153, 10 U.S.C. § 2733, as amended. Regulations at U.S. Department of Army, Reg. 27-20 (hereinafter AR 27-20). U.S. Department of Army, Pamphlet 27-162, Claims Procedures (March 21, 2008) (hereinafter DA PAM 27-162).

**Responsible Agency:** U.S. Army Claims Service

**Compensable Items:** Personal injury. Wrongful death. No consequential, punitive, or exemplary damages or costs of preparing, filing, and pursuing a claim are payable.

**Compensation Limits:** If under the MCA, the total award for non-economic damages to any direct victim and any person claiming through that victim will not exceed \$500,000. In wrongful death cases, separate claims for emotional distress are not considered under the \$500,000 cap; rather, each is a separate claim with its own \$500,000 cap.

**Request Deadline:** Claims must be made no later than two years from the date of awareness of injury and its cause. Denials or final offers on claims under the MCA may be appealed within 60 days or an approved extension thereof. If denial or final offer on claim under the MCA is upheld on appeal, claimant must accept the award within 180 days of date of mailing or claim will be deemed denied. Request for reconsideration under the FTCA must be made within six months of the notice of denial or final offer.

**Request Method:** File a Standard Form (SF) 95 form with U.S. Army Claims Service. If a tort under applicable state law and final action is

unsatisfactory, may file lawsuit in U.S. District Court within six months of unsatisfactory decision by the U.S. Army Claims Service.

**Processing Time:** Higher claim values require review at higher levels. Because of settlement authority, lower-valued claims may be settled more quickly.

**Additional Information:** Personal injury claim may be made by injured person or a duly authorized agent or legal representative, or if claimant is a minor, by parent or a person in loco parentis. Personal injury claim may also be brought under the MCA by spouses for loss of consortium and by members of the immediate family who were in the zone of danger of the injured person. Wrongful death claim may be made by executor or administrator of deceased's estate or by any person determined to be legally or beneficially entitled to make the claim under applicable local law. Only one wrongful death claim will be made, and it must be made on behalf of all parties in interest, i.e., surviving spouse, children, dependent parents, next of kin.

Must claim the total amount ("sum certain") on SF-95. Acceptance of settlement is final and releases U.S. Government and its employees from all liability. May arise from official non-combat activities. If a tort under applicable state law, requires proof of negligence or of wrongful act or omission by the U.S. Government or its employees acting with scope of employment. If not a tort, requires only causation by military personnel or civilian employees (except non-federalized Army National Guard [ARNG]) acting within scope of employment. Cannot file suit for money damages under the FTCA until final denial of claim by the appropriate federal agency. Attorney's fees are taken from and limited to 20% of claim settlement or 25% of any judgment.

## 13. Program: U.S. Environmental Protection Agency (EPA) Local Government Reimbursement Program

**Legal Authority:** Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) § 111(c)(11), 123; 40 C.F.R. § 310.

**Responsible Agency:** U.S. Department of the Army; EPA

**Compensable Items:** Costs incurred in performing temporary emergency response measures.

**Compensation Limits:** \$25,000 per incident.

**Request Deadline:** Applications should be submitted within one year of completing the emergency response.

**Request Method:** File application along with required documentation. To obtain applications, call (800) 431 9209 or access the Local

Government Reimbursement Program website at [www.epa.gov/superfund/programs/er/lgr](http://www.epa.gov/superfund/programs/er/lgr).

**Processing Time:** Reimbursement may come within three to six months after EPA receives an application. Some complete applications are processed even faster.

**Additional Information:** Not available to state governments. Applicants must not be responsible for the release. Response measures must be a direct result of actual or threatened releases of hazardous substances. Applicants must properly document costs and certify that they do not have money in their budget for these costs. Applicants must be unable to recover costs from the party responsible for the release, their state government, and local government insurance.

**14. Program: Federal Crop Insurance**

**Legal Authority:** Federal Crop Insurance Act. 52 Stat. 31.

**Responsible Agency:** Federal Crop Insurance Corporation, subject to the general supervision of the U.S. Secretary of Agriculture

**Compensable Items:** Insured crop losses.

**Compensation Limits:** Several revenue insurance plans are available. Each policy has its own definition of revenue. Catastrophic risk protection and other types of coverage may also be available.

**Request Deadline:** Report losses to insurance provider within 72 hours. Confirm in writing within 15 days.

**Request Method:** As specified in insurance provider's policy.

**Processing Time:** not specified

**Additional Information:** Must have had crop insurance policy in effect at time of disaster, purchased by the sales closing date for the crop. If unsatisfactory initial claim, appeal, mediation, and/or non-binding arbitration available, depending on the reason for denial. Insurance policies not available for all crops in all areas.

**15. Program: Noninsured Crop Disaster Assistance Program (NAP)**

**Legal Authority:** Food, Conservation, and Energy Act of 2008 (2008 Farm Bill), Pub. L. No. 110-234, 122 Stat. 923 (May 22, 2008) (to be codified at 7 U.S.C. § 1531).

**Responsible Agency:** U.S. Department of Agriculture (USDA) Farm Services Agency (FSA)

**Compensable Items:** Catastrophic crop loss for which federal crop insurance is not available. Eligible crops include: commercial crops grown for food, commercial crops planted and grown for livestock consumption, commercial crops grown for fiber, commercially produced aquacultural species, floriculture crops, ornamental nursery crops, Christmas tree crops, turfgrass sod, industrial crops, seed crops, and sea grass and sea oats.

**Compensation Limits:** Percentages based on type of loss and overall eligibility, i.e., reduced yield (50% of approved yield), value

loss crops (50% of crop value), prevented planting loss (35% of crop acreage), or price (based on a percentage of average market price)

**Request Deadline:** Report losses to FSA within 15 days.

**Request Method:** Must file an application and pay service fee for NAP coverage using Form CCC-471 in the local FSA office for the county where the acreage is located no later than the application closing date for that area.

**Processing Time:** not specified

**Additional Information:** Crop loss must meet all NAP eligibility requirements. Have right to appeal if initial claim is denied. With the 2008 Farm Bill, eligibility for compensation is linked to holding insurance for insurable crops; waivers are possible.

**16. Program: Livestock Forage Disaster Program**

**Legal Authority:** Food, Conservation, and Energy Act of 2008 (2008 Farm Bill), Pub. L. No. 110-234, 122 Stat. 923 (May 22, 2008) (to be codified at 7 U.S.C. § 1531).

**Responsible Agency:** U.S. Department of Agriculture (USDA) Farm Services Agency (FSA)

**Compensable Items:** Grazing losses for eligible livestock because of drought or fire under the Livestock Forage Disaster Program (LFP).

**Compensation Limits:** not specified

**Request Deadline:** under development by FSA.

**Request Method:** Applications available through local FSA service centers. Report losses to FSA county offices.

**Processing Time:** not specified

**Additional Information:** At the time of this writing, specifications for programs are under development by the FSA. Must meet eligibility and linkage requirements, in which insurance is required to qualify for some USDA disaster assistance programs. In general, USDA programs give producers the right to appeal an unsatisfactory determination.

17. Other Assistance

The programs below are described in the Federal Emergency Management Agency (FEMA) guide, “Help After a Disaster — Applicant’s Guide to the Individuals & Households Program,” FEMA, August 2005.

- **Social Security:** Help is available from the Social Security Administration (SSA) in expediting delivery of checks delayed by the disaster and in applying for Social Security disability and survivor benefits.
- **Veteran’s Benefits:** The Veterans Administration (VA) can expedite delivery of information about benefits, pensions, insurance settlements, and VA mortgage loans.
- **Federal Tax Assistance:** The federal tax laws allow the Internal Revenue Service (IRS) to grant relief to taxpayers who are

victims of a Presidentially-declared disaster. This relief includes postponing tax deadlines to provide extra time to file and pay before any penalty will be assessed, additional amount, or addition to the tax, or abating interest for periods for which an extension of time is received to file tax returns and pay taxes because of being located in a Presidentially-declared disaster area.

- **Assistance from Financial Institutions:** Banks that are members of the Federal Deposit Insurance Corporation (FDIC), Federal Reserve System (FRS), or the Federal Home Loan Bank Board (FHLBB) may permit early withdrawal of time deposits, without penalty. Contact the financial institution to see if it has obtained a waiver from its regulatory agency.

ACRONYMS AND ABBREVIATIONS

<b>AR</b>	Army Regulation
<b>Army</b>	Department of the Army Claims Service
<b>ARNG</b>	Army National Guard
<b>C.F.R.</b>	Code of Federal Regulations
<b>CCC</b>	Commodity Credit Corporation
<b>CCP</b>	Crisis Counseling Assistance and Training Program
<b>CERCLA</b>	Comprehensive Environmental Response, Compensation, and Liability Act
<b>CFDA</b>	Catalog of Federal Domestic Assistance
<b>CSEP</b>	Chemical Stockpile Emergency Preparedness
<b>CSEPP</b>	Chemical Stockpile Emergency Preparedness Program
<b>DA</b>	Department of the Army
<b>DA PAM</b>	Department of the Army Pamphlet
<b>Dept. of Labor</b>	Department of Labor
<b>DUA</b>	Disaster Unemployment Assistance
<b>EPA</b>	Environmental Protection Agency
<b>FDIC</b>	Federal Deposit Insurance Corporation
<b>FEMA</b>	Federal Emergency Management Agency
<b>FHLBB</b>	Federal Home Loan Bank Board
<b>FRS</b>	Federal Reserve System
<b>FSA</b>	Farm Service Agency
<b>FTCA</b>	Federal Tort Claims Act

<b>GSA</b>	General Services Administration
<b>IHP</b>	Individual and Household Programs (under the Stafford Act)
<b>IRS</b>	Internal Revenue Service
<b>LFP</b>	Livestock Forage Disaster Program
<b>MCA</b>	Military Claims Act
<b>NAP</b>	Noninsured Crop Assistance Program
<b>OMB</b>	Office of Management and Budget
<b>Pub. L. No.</b>	Public Law Number
<b>Reg.</b>	Regulation
<b>SAMHSA</b>	Substance Abuse and Mental Health Services Administration
<b>SBA</b>	Department of Commerce Small Business Administration
<b>SF</b>	Standard Form
<b>SSA</b>	Social Security Administration
<b>Stafford Act</b>	Robert T. Stafford Disaster Relief and Emergency Assistance Act
<b>Stat.</b>	Statutes At Large
<b>U.S.C.</b>	United States Code
<b>USDA</b>	Department of Agriculture
<b>VA</b>	Department of Veterans Affairs

# REFERENCES

## Statutes

- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601 et seq. (1980).
- Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. §§ 1961-1984.
- Federal Crop Insurance Act, 52 Stat. 31.
- Federal Tort Claims Act (FTCA), 60 Stat. 842, 28 U.S.C. §§ 2671-2680, as amended.
- Food, Conservation, and Energy Act of 2008 (2008 Farm Bill), Pub. L. No. 110-234, 122 Stat. 923 (May 22, 2008) (to be codified at 7 U.S.C. § 1531).
- Military Claims Act (MCA), 70A Stat. 153, 10 U.S.C. § 2733, as amended.
- Small Business Act of 1953, as amended, particularly 15 U.S.C. §§ 636(b), (c), (f).
- The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 93 288, as amended, 42 U.S.C. §§ 5121 et seq.

## Regulations

- 7 C.F.R. § 764 (Emergency farm loans)
- 7 C.F.R. § 1400 (FSA programs)
- 13 C.F.R. § 123 (SBA loans)
- 20 C.F.R. § 625 (Department of Labor — disaster unemployment)
- 40 C.F.R. § 310 (Reimbursement to local governments for emergency response to hazardous substance releases)
- 44 C.F.R. § 206 (FEMA disaster assistance)
- U.S. Department of Army, Regulation 27–20 (MCA and FTCA)

## Guidebooks and other References

- *Syms v. Olin Corp.*, 408 F.3d 95, 101-02 (2d Cir. 2005).
- *Help After a Disaster — Applicant's Guide to the Individuals & Households Program*, FEMA, August 2005
- *Public Assistance Policy Digest*, FEMA 321
- *Public Assistance Guide*, FEMA 322
- *Public Assistance Applicant Handbook*, FEMA 323
- *Farmer's Guide to Disaster Assistance*, Sixth Edition (Farmer's Legal Action Group, Inc., June 2008)
- Catalog of Federal Domestic Assistance (<http://12.46.245.173/cfda/cfda.html>), including:
  - 10.404 USDA Emergency Loans
  - 59.008 SBA Disaster Assistance Loans
  - 83.535 Mitigation Assistance
  - 97.030 Community Disaster Loans
  - 97.032 Crisis Counseling
  - 97.033 Disaster Legal Services
  - 97.034 Disaster Unemployment Assistance
  - 97.036 Disaster Grants — Public Assistance (Presidentially Declared Disasters)
  - 97.048 Disaster Housing Assistance to Individuals and Households in Presidential Declared Disaster Areas
  - 97.050 Presidential Declared Disaster Assistance to Individuals and Households — Other Needs
- *Noninsured Crop Disaster Assistance Program for 2001 and Subsequent Years*, 1-NAP (Revision 1)
- U.S. Dept. of Army, Pamphlet 27-162, Claims Procedures (March 21, 2008)