



Implementation Manual

Chapter 10–Force Account Labor

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TEXAS GENERAL LAND OFFICE

Community Development and Revitalization Department

COMMISSIONER DAWN BUCKINGHAM, M.D.

The GLO-CDR Implementation Manual provides guidance for CDBG-DR and CDBG-MIT subrecipients and should not be construed as exhaustive instructions.

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CHAPTER 10—FORCE ACCOUNT LABOR

10.1 Introduction

Force account labor is defined by the Internal Revenue Service as labor classified as professional services, construction, rehabilitation, repair, or demolition performed by municipal, county, or Council of Government employees.

Force account occurs when a subrecipient decides to perform specific duties using its own employees or equipment to perform CDBG-DR and/or CDBG-MIT project related work, as opposed to using a contractor or vendor to complete those services. Force account may be used for services including construction, inspection, administration, project delivery, engineering, or other professional services. For example, a locality may procure a contractor to replace storm-damaged sewer lines but may choose to make the necessary post-construction street repairs using force account labor and equipment.

If eligible and properly documented, force account work may be reimbursable from the subrecipient's CDBG-DR and/or CDBG-MIT project budget. Force account may also help subrecipient leverage CDBG-DR and/or CDBG-MIT funds to use for other expenditures for which the subrecipient lacks in-house capacity.

The subrecipient must ensure they have the staff capacity to complete the task(s) identified, to implement a project using force account labor in a CDBG-DR and/or CDBG-MIT project. The proposed use of force account labor is usually identified during the application phase. If a decision to use force account is made after the application phase, the subrecipient must notify the grant manager in writing before associated activities are underway. GLO-CDR may request additional documentation to ensure the use of force account is aligned with the approved budget, schedule, and scope of work.

To be eligible for force account reimbursement, the subrecipient must document that the employee is on the subrecipient's payroll records as either a regular or temporary employee. Status may also be documented through W-2 Wage and tax statements.

When using local employees, the subrecipient must assure, at a minimum, the following:

- Subrecipient has written personnel and employment policies that include specifically prohibited discriminatory practices;
- Conflict of Interest provisions are in place and enforced;
- EEO guidelines are followed in advertising for new employees; and
- All contract provisions are in compliance with Fair Labor Standards.

The basic requirements a subrecipient should consider in planning for the use of force account labor include:

- Skillful workforce;
- Adequate supervision;

- Established management control system; and
- Capacity to serve as own general contractor.

Force account applies to the following types of employees:

- Permanent employees of a subrecipient;
- Temporary employees of a subrecipient hired, not contracted, to specifically perform work on a federally funded or federally assisted construction project—the subrecipient must provide evidence that it adhered to its hiring and employment policies for temporary employees;
- Employees of a county who are carrying out public facilities improvements for a subrecipient through an intergovernmental agreement as prescribed by the Texas Government Code, Interlocal Cooperation Contract, Chapter 791; and
- Employees of a public utility district or utility company on a case-by-case basis.

Determining whether a worker is an employee rather than an independent contractor depends on many factors including the nature and degree of control by the principal/payer. Each subrecipient must maintain files documenting the relationship between it and the personnel it uses as force account labor (see IRS <https://www.irs.gov/businesses/small-businesses-self-employed/independent-contractor-self-employed-or-employee> for information).

A cost-benefit analysis should be conducted to determine if the type of labor, the proposed scope of work, and the project description is better accomplished by procuring an outside, dedicated labor force. The completed cost-benefit analysis must be maintained in the local project file. This analysis should define, at a minimum, the following:

- How the employees' regular duties will be suspended or re-assigned;
- If the regular work duties of the employees will be adversely affected;
- How long the subrecipient be able utilize the employees;
- A plan for staff turnovers; and
- Whether employees have the required licenses or certifications for jobs being considered.

In addition to force account construction work, subrecipient may utilize local employees to administer and/or engineer their CDBG-DR and/or CDBG-MIT funded projects. A cost benefit analysis should also be completed for these job duties before proceeding with using force account labor to complete these activities and be available in the local file for review upon request by the GLO-CDR.

Force account work is not subject to Davis-Bacon and Related Acts wage requirements. Governmental agencies and states or their political subdivisions are not considered “contractors” or “subcontractors” within the meaning of the Davis-Bacon and Related Acts. Subrecipient must continue to pay the employees their regular wages and benefits [HUD Handbook 1344.1]. Documentation of accurate payrolls is required for CDBG-DR and/or CDBG-MIT reimbursement. However, any part of the work not performed using force account labor but contracted out may be subject to Davis-Bacon and Related Acts (DBRA) and

Contract Work Hours and Safety Standards Act (CWHSSA) as described in Chapter 9 — Labor Standards & Davis Bacon.

The advantages to using force account may include:

- Exemption from DBRA, CWHSSA, and the Copeland Acts;
- Cost effectiveness, if the activity is one that traditionally is performed by subrecipient personnel;
- Jobs are kept in the community; and
- Greater local control over scheduling and costs.

Subrecipient should consider the following when using force account:

- Work does not have a warranty;
- Construction may take longer, making it a challenge to meet contract time frame;
- Extensive record keeping is required;
- Availability of skilled local workers and appropriate equipment;
- 2 CFR 200 procurement standards apply to purchase of materials; and
- Inspection process may be less frequent and rigorous.

Subrecipients that use force account labor should be prepared to provide, at a minimum, the following as supporting justification upon request by the GLO:

- Description of the construction activities to be completed by force account;
- Justification for doing the work by force account;
- Details of subrecipient's experience with projects of like or similar nature;
- Information on workload as it may affect capacity to do the work within time frame or work schedule; and
- A complete estimated cost schedule (breakdown) showing:
 - The number of work hours and cost per hour for each category of labor;
 - A list of non-salary costs such as materials, supplies, equipment owned by the subrecipient, equipment that must be rented, etc.;
 - Certification that personnel identified to complete work by force account are employees of the subrecipient, a city/county, a public utility district, or a utility company, as allowed. If temporary workers are hired, certification that the employer's policies for temporary employees will be followed; and
 - List of names and qualifications of personnel performing specialized work, such as inspection, testing, electrical work, etc. as applicable.

10.2 Allowable Force Account Costs

CFR Part 200, Subpart E, establishes the Cost Principles for federally funded or federally assisted projects. Only actual expenditures incurred by the subrecipient as a result of the CDBG-DR and/or CDBG-MIT project are considered allowable costs. This applies whether these costs are being reimbursed with CDBG-DR and/or CDBG-MIT funds or paid by other funds. These costs may include labor, materials, equipment, and other services required to implement the CDBG-DR/CDBG- MIT award.

The subrecipient must maintain documentation in the local files to support force account costs. Examples of supporting documentation include timesheets, payroll data, and GLO personnel and equipment cost calculation forms. Updated documents are required if salaries, rates, or other items identified in the calculation of personnel or equipment costs change. These documents are required to support a request for reimbursement for all force account costs. A link to the Force Account associated forms are included in the [Resources](#)—Resource 10.1 at the end of this chapter.

10.3 Allowable Reimbursable Cost Categories

10.3.1 Real Hourly Force Account Wages

Subrecipient who use force account labor shall maintain evidence of reasonable wages supported by accurate documentation in the local file and provided to GLO-CDR, as required. This includes personnel cost calculation forms, administrative and construction personnel time sheets, and payroll records. Each document must be certified by the certifying officer or designee. Compensation is considered reasonable when it is comparable to wages that are paid for similar work in other areas of that same government entity. When comparable work is not found within that entity, a salary survey should be conducted. Only time worked on the project may be claimed for grant reimbursement or matching funds.

A personnel cost calculation must be completed for each employee to determine the allowable hourly rate charged on CDBG-DR and/or CDBG-MIT force account projects or to document leveraged funds. The form need only be submitted once for each employee, unless the employee's wages change during the course of the project.

Personnel and equipment ledgers provide a method of documenting personnel and equipment costs, timesheet hours worked, and equipment usage time.

NOTE: Salaries and expenses of elected officials (mayor, county judge, city council, or county commissioners) of a political subdivision are considered a cost of local government and are NOT allowable grant costs.

10.3.2 Overtime Force Account Wages

Overtime costs incurred by the subrecipient for employees that work more than 40 total hours per week, including work on a CDBG-DR and/or CDBG-MIT project, are eligible costs. The subrecipient must complete a separate personnel cost calculation form for the overtime rate for each employee to determine an hourly rate for overtime in accordance with local employment policies and U.S. Department of Labor regulations. Health insurance and other fixed cost benefits should NOT be increased on the overtime calculation; however, any benefits paid by the employer based on wages may be adjusted for the overtime rate.

10.3.3 Fringe Benefits

Allowable fringe benefits, if applicable, must be provided under a locally approved plan or policy and may be reimbursed in proportion to the amount of the employee's time spent on CDBG-DR and/or CDBG-MIT activities. Allowable fringe benefits may include the following compensation or contributions made by the subrecipient: vacation, holidays, sick leave, social security, life/health insurance, unemployment insurance, worker's compensation, and retirement. These benefits need to be reflected on the personnel cost calculation.

Information to consider in the personnel cost calculation are:

- Hourly wage or annual salary
- Employer portion of FICA
- Employer portion of retirement
- Worker's compensation
- Unemployment insurance
- Insurance contribution by employer
- Hours worked per year
- Hours worked per year Holiday time allowed
- Estimated sick leave
- Other leave time

The GLO-CDR provides a Force Account Personnel Cost Calculation Form as a resource. See the [Resources](#) section of this chapter for a link to the form's location.

10.3.4 Material Costs

All materials used in the construction of the project are eligible expenses. However, all materials must be procured according to the procedures described in Chapter 5—Procurement.

If the subrecipient uses materials already on hand, rather than purchasing materials specifically for the project, reimbursement will be based on the actual cost of the material at the time of purchase. Competitive procurement requirements still apply to materials on hand. For documentation purposes and to ensure cost reasonableness, it is highly recommended that a subrecipient procure materials specifically for the proposed force account activity using 2 CFR 200 requirements rather than using materials on hand.

If there is inventory of unused supplies greater than \$5,000 upon termination or completion of the project and the supplies are not needed for any other federal award, the non-federal entity must retain the supplies for use on other activities or sell them and compensate the federal government for its share. (2 CFR 200.314)

10.3.5 Equipment Costs

Subrecipient may be compensated for the use of equipment on CDBG-DR and/or CDBG-MIT projects, including construction equipment. An equipment cost calculation form must be

submitted for each piece of equipment for which the subrecipient requests grant reimbursement or matching costs.

All methods of charging for equipment usage must be based on an hourly rate. Considerations for charging for equipment usage are as follows:

- Only actual hours of “in use” construction time at the project site are eligible (“in use” means that the equipment is in actual operation performing eligible work);
- Standby equipment costs are not eligible;
- The hours charged for equipment use must agree with the corresponding hours documented for the equipment operator (if two pieces of equipment are used in tandem by a single operator, please include an explanation in the request for payment)
- When calculating equipment rates instead of using FEMA’s Schedule of Equipment Rates below, include all eligible costs of ownership and operation of equipment, including depreciation, overhead, all maintenance, field repairs, fuel, lubricants, tires, OSHA equipment and other costs incident to operation [Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121]. Fuel and maintenance costs are not eligible for separate reimbursement;
- Equipment rates should not include the labor costs of the equipment operator as those labor costs should be claimed separately; and
- Vehicles used to transport people (work crew, engineer, or other city personnel authorized to document progress for drawdown requests, etc.) must be based on mileage traveled and the FEMA rate per mile unless documentation is provided that the vehicle was used for an eligible purpose other than transporting people.

FEMA Equipment Rates

GLO-CDR will generally allow subrecipient to use FEMA’s Schedule of Equipment Rates for calculating the compensation for the use of equipment owned by the subrecipient, in lieu of calculating their own rates as described in item 4 above. Current rates can be found at <https://www.fema.gov/schedule-equipment-rates> and are also referenced in [Resources](#)—Resource 10.2 at the end of this chapter.

Rental Cost Reimbursement

Subrecipient may request reimbursement for the time rented equipment is in actual use for a CDBG-DR and/or CDBG-MIT project using an hourly rate (actual rental cost divided by a 40-hour work week) plus fuel costs. The subrecipient must compare the hourly rental rate to the FEMA rate and document in the local file. Additional explanation or justification for the difference will be required if the rental costs are higher than the FEMA rate. The table below summarizes some keys points on the different methods of charging equipment use:

	FEMA Rates	Rental Cost Reimbursement
Equipment	Owned or Lease to Purchase	Rented
Basis for Reimbursement	Hours of use & FEMA rates	Hours of use
Maximum Reimbursement	Actual number of hours worked multiplied by the FEMA rate	Actual rental cost, plus fuel
Separate Fuel & Maintenance Costs	NOT eligible	Eligible
Separate Labor (Operator) Costs	Eligible	Eligible

10.4 Force Account Recordkeeping

The subrecipient must maintain thorough documentation of all costs. This applies whether these costs are being reimbursed with CDBG-DR and/or CDBG-MIT funds or used to document all or part of leveraged funds. All costs charged to the project must apply to a particular line item of the CDBG- DR and/or CDBG-MIT contract budget. This documentation must include, at a minimum, the following:

- Employee personnel policies that delineate paid leave, overtime, equal employment, travel, terms of employment policies, compliance with the Fair Labor Standards Act, and Section 504;
- If temporary workers are hired to complete the project, the employee personnel policies must address temporary employees;
- A personnel cost calculation that is signed and approved by either the employee's supervisor or other authorized personnel that determines the hourly cost for each employee;
- Time sheets identifying construction or administrative personnel and work performed;
- All timesheets should correspond to the subrecipient regular employee time sheets to the extent that no one should be charged to the project if they are not in attendance
- Certified timesheets and corresponding subrecipient payroll records must be retained in the local project file);
- An equipment cost calculation form signed and approved by authorized personnel that determines the hourly cost for each piece of equipment;
- Documentation of the use of the equipment and operator. Hourly costs may be based on FEMA equipment rates, depreciation, or rental cost as described in this chapter. Rented or leased equipment must be supported by a copy of the rental or lease agreement and a calculation of the hourly rental cost, including fuel, compared to the FEMA rate for the equipment; and
- Invoices and canceled checks for all construction materials and other supplies.

10.5 Documentation required for each Request for Payment

All requests for payment that include force account costs must include, at a minimum, the following:

- Complete and certified documentation to support the requested amount including, but not limited to:
 - Invoices,
 - Force Account Construction Personnel Time Sheet,
 - Administrative Personnel Time Sheet,
 - Workforce Summary Page,
 - Equipment use and rate calculations;
- A map of the project area that clearly identifies the areas where work has been completed to date including the current request for payment and work to be performed in the future;
- Request for Payment coversheet; and
- Other documents as deemed necessary by GLO-CDR to support associated costs.

10.6 Resources

GLO-CDR has created a comprehensive website which contains necessary forms, checklists, detailed guidance documents, and additional resources to supplement this Implementation Manual. Please see <https://www.glo.texas.gov/disaster-recovery> for more information. The following resources are referenced within this chapter and will be updated as new forms and documents are developed.

Resource Number	Topic	Web Page URL	File Located Under Section / Accordion
Resource 10.1	Force Account Labor Forms:	https://www.glo.texas.gov/disaster-recovery/infrastructure-forms	Force Account Labor
	Personnel Cost Calculation Sheet	https://www.glo.texas.gov/disaster-recovery/infrastructure-forms	Force Account Labor
	Equipment Cost Calculation Sheet	https://www.glo.texas.gov/disaster-recovery/infrastructure-forms	Force Account Labor
	Administrative Personnel Time Sheet	https://www.glo.texas.gov/disaster-recovery/infrastructure-forms	Force Account Labor
	Force Account Construction Personnel Time Sheet	https://www.glo.texas.gov/disaster-recovery/infrastructure-forms	Force Account Labor
	Certification of Construction Completion for Force Account	https://www.glo.texas.gov/disaster-recovery/infrastructure-forms	Force Account Labor
	Force Account Internal Workforce Summary Page*	https://www.glo.texas.gov/disaster-recovery/infrastructure-forms	Force Account Labor

Resource 10.2	FEMA Schedule of Equipment Rates	https://www.fema.gov/assistance/public/tools-resources/schedule-equipment-rates	N/A
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Questions: Please direct all questions regarding your specific program or project to your assigned GLO Grant Manager. Send comments related to the GLO-CDR Implementation Manual to ImplementationManual.glo@recovery.texas.gov.