

Chapter 23. Local Governments Reimbursement (LGR) Program

In the event of a release (or threatened release) of hazardous substances, EPA may reimburse local governments for expenses related to the release and associated emergency response measures through its Local Governments Reimbursement (LGR) Program. The LGR Program provides a "safety net" of up to \$25,000 per incident to local governments that do not have funds available to pay for response actions. This program can provide some financial relief to local governments most seriously affected by costs above and beyond those incurred routinely and traditionally. Key to this regulation (40 CFR part 310) is that reimbursement must not supplant local funds normally provided for response.

Because local governments are often the first to respond to an incident to protect the public, EPA created the LGR Program to provide reimbursement to local and tribal governments for certain expenses related to response for hazardous substance releases in their jurisdictions. These funds are limited to \$25,000 per single response and are only available if the applying government is not at fault for the release. Requests for reimbursement must be received by EPA within one year of response completion (i.e., when all fieldwork is completed, paperwork is received, and cost recovery is attempted).

The goal of this program is to provide financial assistance to government entities that do not have a budget allocated for emergency response and cannot otherwise provide adequate response measures. Contact your state or tribal organization who may have cost recovery statutes for hazardous materials incidents.

At a high level, the LGR Program:

- Provides reimbursement for temporary, **unanticipated** emergency measures in response to hazardous substance releases or threatened releases.
- Provides funds that cannot supplant funds normally provided for response activities.
- Has a \$25,000 limit per response.
- Allows only **one** reimbursement request per incident.
- **Does not include** petroleum products (unless mixed with another hazardous substance).

23.1 LGR Regulation and Resources

Details about the application process, a list of services or products that may or may not be reimbursed, and the application form to request reimbursement can be found in [40 CFR Part 310](#).

The application form is also available on EPA's website (<https://www.epa.gov/emergency-response/local-governments-reimbursement-program>) or by calling the toll-free LGR Helpline: 1-800-431-9209.

23.2 Who Responds to Emergency Situations?

The National Oil and Hazardous Substances Pollution Contingency Plan (NCP) 40 CFR 300.180 states: “Because state and local public safety organizations would normally be the first government representatives at the scene of a discharge or release, they are expected to initiate public safety measures that are necessary to protect public health and welfare and that are consistent with containment and cleanup requirements in the NCP, and are responsible for directing evacuations pursuant to existing state or local procedures.”

Additionally, 40 CFR 300.700 states:

1. Responsible parties shall be liable for all response costs incurred by the U.S. government or a state not inconsistent with the NCP.
2. Responsible parties shall be liable for necessary costs of response actions to releases of hazardous substances incurred by any other person consistent with the NCP.

23.3 The Role of the Responsible Party

EPA recommends the first route of cost recovery is with the responsible party. Once the response is completed, a local government should determine what costs were reasonable and then present such costs to the responsible party.

CERCLA Section 107(a), the NCP 40 CFR 300.700, and applicable state statutes require the responsible party to compensate local government authorities for appropriate and reasonable costs related to a hazardous substance release. When a community responds to a release or threat of a release of a hazardous substance, and there is no responsible party (e.g., abandoned drums), or if the responsible party is not capable of reimbursement for expenses (e.g., bankruptcy), the LGR Program may be able to provide a "safety net" of up to \$25,000 per incident to local governments that do not have funds available to pay for response actions.

23.4 Determining Eligibility

To be eligible for the LGR Program, a local government must meet the following requirements:

- The applicant must be a general-purpose unit of local government such as a county, parish, city, town, township or municipality. Federally recognized Indian tribes are also eligible for reimbursement under the LGR Program.
 - States are not eligible for reimbursement under the LGR Program and may not request reimbursement on the behalf of a local government or a federally recognized Indian tribe within the state.
- The applicant must have legal jurisdiction over the site at which the incident occurred.
- Only one request for reimbursement will be accepted for each eligible incident.
- When more than one local government has participated in a response, the local government that has legal jurisdiction over the site at which the incident occurred must submit the application. The application can be made on behalf of all participating local governments. If

multiple local governments or agencies have jurisdiction over the site, then the respondents must decide which single government or agency will submit the reimbursement request.

- The local government is not the responsible party. If the local government applying for reimbursement is also the responsible party, the application will be denied. Responsible parties (even if they are a local government) are liable for response costs.
- Substances released or threatened to be released must be designated as hazardous under CERCLA.

Incidents involving petroleum products including petroleum, natural gas, crude oil, or any other specified fractions thereof that are not specifically designated as CERCLA hazardous substances do not qualify under this program. However, some mixed waste may be allowable under the LGR Program. For oil spills, the USCG has a program under which a claim can be made. For more information, see www.uscg.mil/npfc.

23.5 Requirements for Reimbursement

Once a local government has decided to apply for reimbursement, there are a number of basic requirements that must be met to comply with the regulations of the LGR Program.

When completing the LGR application, local governments should pay special attention to the following requirements to facilitate the reimbursement process:

1. **Reimbursement cannot supplant local funds normally provided for a response.** In other words, if a local government budgets for emergency response activities, it must draw from this budget to pay for the cost of a response. However, if a local government's funds have been depleted, then it may be eligible for reimbursement under the LGR Program. In addition, other items that may not be budgeted for (e.g., overtime pay, unanticipated materials and supplies) may also be reimbursable under the LGR Program.
2. **Cost recovery must be pursued prior to applying for reimbursement.** The applicant must complete the Cost Recovery Summary Table, included in the application, to document the background and current status of cost-recovery efforts. It should be clear that all available sources of cost recovery (e.g., responsible parties and their insurance, the state, and local government insurance) have been pursued. Although not required, it is recommended that a copy of all related correspondence also be included in the application to document the applicant's cost recovery efforts. Potential cost-recovery sources should be given a minimum of 60 days to respond before an LGR application is filed. By signing the last page of the application, a local government is certifying cost recovery was pursued.
3. **Detailed cost documentation must be submitted with the application.** The applicant must complete the detailed Cost Breakdown Table, included in the application. All costs for which reimbursement is being requested must be listed and supporting documentation (e.g., invoices, sales receipts, time sheets, or rental agreements) must be attached.

Note: Costs incurred for long-term remedial measures do not qualify under the LGR Program. Reimbursement is made only for temporary emergency measures conducted in response to hazardous substance releases or threatened releases.

4. **The application must be signed by the local government's highest-ranking official.** Examples of the highest-ranking official include mayor, city manager, board of commissioners, county judge, or head of a recognized tribe. In instances where the highest-ranking local official is unable to sign the application form, a letter of delegation, along with the application that authorizes a delegate to sign the application on his or her behalf, must be submitted.
5. **Applications must be submitted to EPA within one year of the "date of response completion."** For the LGR Program, the date of completion is the date when all field work has been completed and all project deliverables (e.g., lab results, technical reports or invoices) have been received by the local government. (The date of completion is not determined by cost-recovery efforts, which can continue after an application is submitted.) In general, a local government should allow at least 60 days for each potential source of reimbursement to respond to a request for repayment before submitting an application to LGR. EPA will consider late applications on a case-by-case basis.

23.6 Reimbursement Application

The complete LGR application package, including the LGR application form and a copy of the LGR regulations (40 CFR Part 310), can be found at <https://www.epa.gov/emergency-response/local-governments-reimbursement-program>.

Completed applications should be sent via U.S. Postal Service first-class, unregistered mail to:

U.S. Environmental Protection Agency
Local Governments Reimbursement (LGR) Program
Attn: Brian Schlieger, *Mail Code*: 5104-A
1200 Pennsylvania Avenue
Washington, DC 20460

Any other method of delivery may delay receipt of the application package due to security measures at EPA.

Due to the current COVID-19 pandemic and subsequent work-from-home orders, applications that are physically mailed will not be received and processed in a timely manner. In order to avoid delay in application processing, applications should be submitted electronically to the following email address: schlieger.brian@epa.gov.

Applicants should receive a confirmation within one month of receipt of the application. If an application is complete and it is approved, reimbursements are generally awarded within three to six months of submittal. If EPA requires more information to process the application, the applicant will be contacted for further details. This may increase the time it takes for reimbursement to be made.

23.7 Frequently Asked Questions

What costs are reimbursable under the Local Governments Reimbursement (LGR) Program?

All costs for which a local government is seeking reimbursement must be consistent with CERCLA, the NCP, and federal cost principles by the Office of Management and Budget. In general, EPA will consider reimbursement for costs of such items as:

- Disposable materials and supplies purchased during a specific response.
- Rental or leasing of equipment used for a specific response.
- Special technical services and laboratory costs.
- Services and supplies purchased for a specific evacuation.
- Payment of unbudgeted wages for employees responding to the specific incident (for example, overtime pay for response personnel).

Reimbursement cannot supplant local government funds normally provided for emergency response. All applications must include appropriate cost documentation such as invoices, sales receipts, leasing agreements or time sheets. In addition, it is essential that applicants certify their attempts to recover costs from the potentially responsible party, the state and local government insurance.

What costs are not allowable?

Expenditures that local governments incur in providing what are traditionally local services and responsibilities are not eligible for reimbursement under the program (e.g., routine firefighting, preparing contingency plans, training). Unallowable costs also include supplies, equipment and services routinely purchased to maintain a local government's ability to respond effectively to hazardous releases.

Other costs that are not allowable are:

- Purchase or routine maintenance of durable equipment expected to last one year or more, except when contaminated or damaged.
- Materials and supplies not purchased specifically for the response (i.e., already on the shelf).
- Rental costs for equipment owned by the local government or another unit of local government.
- Employee fringe benefits.
- Administrative costs for filing reimbursement applications.
- Employee out-of-pocket expenses (e.g., meals or fuel).
- Legal and medical expenses related to response activities.

Who is eligible for reimbursement under the LGR Program?

The governing body of a county, parish, municipality, city, town, township, federally recognized Indian tribe or general purpose unit of local government is eligible for reimbursement. Special purpose units of local government (school district, water utilities district) are not eligible under the LGR Program.

Can more than one application for reimbursement be submitted to EPA for the same incident?

No. Under the LGR regulation, reimbursement is limited to one request per incident, even when multiple government entities respond to the incident. The local government with legal jurisdiction over the site of the incident must submit one application on behalf of all local governments that responded to the incident.

In the event two applications are submitted for the same incident, EPA will accept only the application from the local government with legal jurisdiction. In some cases, two local governments with legal jurisdiction (e.g., a city and a county) may attempt to submit an application for reimbursement. In these cases, EPA will either return both applications with an explanation or, if one has already been awarded, the second application will be denied.

This requirement ensures EPA does not reimburse more than \$25,000 per response and does not reimburse local governments more than once. To avoid this situation, EPA strongly encourages local governments—or agencies within the same local government—to coordinate with each other when seeking reimbursement under the LGR Program. This will help local governments obtain the maximum amount of reimbursement funds, particularly in cases where the combined total of reimbursement requests is less than \$25,000.

Can more than one incident be included on a single application?

Yes, applications can be bundled for multiple incidents; however, a local government must submit all associated necessary information and cost documentation for each incident. In addition, the incidents should be closely related by type (e.g., 10 anthrax calls in one day) and occur in around the same time period. The cap for each application is \$25,000, even if more than one incident is included in an application. For this reason, it may be easier to submit a separate application for each incident to simplify the review process and maximize eligible response costs.

Is there a cap on the amount of reimbursement?

The law limits the amount of reimbursement available to local governments to \$25,000 per incident. Furthermore, the law limits the total amount of reimbursement funds EPA can award in a given year. In the event the amount of funds available for reimbursement becomes limited (e.g., due to increased participation in the program), EPA would prioritize reimbursements according to the financial burden an incident places on each local government, as specified in the LGR Federal Regulation (40 CFR part 310).

How will reimbursement requests be evaluated?

After receiving completed applications from local governments, EPA will screen each application for compliance with the basic requirements. Each application will be evaluated on its own merit. EPA will ensure that the costs for which reimbursement is being sought are allowable and documented and do not supplant local funds normally provided for emergency response, as well as ensuring that all other possible sources of reimbursement have been exhausted.

During the review cycle, the applicant may be contacted to supply additional information or clarify information in the application. Based on EPA's evaluation of the application, a request may be reimbursed (in whole or in part), denied, or held over for reconsideration in instances where funding is limited or currently unavailable.

How does EPA prioritize reimbursement requests?

Once EPA reviews an application and determines it is complete and complies with all of the regulatory requirements, EPA calculates the applicant's financial burden. A local government's financial burden is determined by comparing the eligible response costs to the locality's aggregate income (i.e., the per capita income of the locality multiplied by the locality's population). The purpose of this requirement is to provide financial relief to local governments that face significant financial burden as a result of responding to a hazardous substance incident.

In the event that the amount of funds available for reimbursement becomes limited, the financial burden formula gives priority to those local governments for which the response costs create the greatest financial burden. Because the funding ceiling for the LGR Program has not yet been reached in a given year, EPA has yet to use financial burden to prioritize reimbursements and has reimbursed all eligible applications to date.

If reimbursements for a given year exceed the total amount of funds available for that year, EPA will be required to use the financial burden calculation to prioritize reimbursements. However, EPA may consider other financial information demonstrating a locality's financial hardship (e.g., the impact of responding to numerous hazardous substance emergencies in a short time period, the financial impact of a recent disaster, etc.).

In cases where an application is eligible for reimbursement but cannot be reimbursed due to limited funds, EPA will hold the application for up to one year and will reimburse the local government if funds become available.

How can the status of an application be checked?

The status of applications can be checked by calling the LGR HelpLine at (800) 431-9209 and identifying the name of the local government, the incident type, and the date on which the response occurred.