

BP Government Entity Claims Process Guidelines

This process provides guidance to parishes, counties, local governments, and sub-units of those governments who administer separate budgets (“Local Government Entities”) and have or may incur costs in responding to the Deepwater Horizon Incident. BP has been working closely with Local Government Entities on the Deepwater Horizon Incident response, and this document is intended to provide guidance regarding the types of costs that BP will reimburse or advance where appropriate (“Government Entity Claims Process”). All claims by Local Government Entities will be handled by a specialized team and will be given high priority. **Claimants other than Local Government Entities should refer to the document entitled “BP Claims Process Guidelines for Individuals and Businesses” for guidance on filing claims.**

BP requests that Local Government Entities intending to submit **claims for reimbursement** through the Government Entity Claims Process submit a list of costs incurred to date that includes a description of the activity, an explanation for why the activity was necessary in connection with the Deepwater Horizon Incident, and supporting documentation.

For guidance on the documentation that should support a claim for reimbursement, please call **(302) 476-7732**. This number is dedicated exclusively to the handling of Government Entity Claims. As described below, all requests for pre-approval of **proposed** expenditures or actions and, where appropriate, advance payment, associated with response to the Deepwater Horizon Incident should be made pursuant to a budget that has been submitted to and reviewed by BP’s Government Entity Claims Team.

Requests for pre-approval of Response and Removal Costs and other direct spill response operations will be directed by the Government Entity Claims Team to the Operations Section Chief or Deputy Incident Commander of the Unified Command Center.

Local Government Entities should mail or fax claims for reimbursement through the Government Entity Claims Process to the following:

**ESIS Government Entity Claims Team
PO Box 17160
Wilmington DE 19850**

FAX: (302) 476-6272

Local Government Entities may also submit claims by phone by calling **(302) 476-7732**.

Each month (or shorter period if required due to rapidly changing conditions), Local Government Entities should provide BP with a budget of all similar **anticipated future costs** associated with the proposed expenditures or actions for which the Local Government Entity seeks pre-approval and, where appropriate, advance payment. The goal is to maximize pre-approval and, where appropriate, advance payment of compensable costs under the Oil Pollution Act of 1990

(“OPA”) and minimize uncertainty regarding reimbursement of expenses incurred by Local Government Entities, thereby easing cash flow burdens on those Local Government Entities. For all parties’ convenience, each budget submitted after the first budget should include an accounting of costs actually incurred for the preceding budget period and should be compared (and documented) against the budget, with the new advancement request adjusted accordingly.

The Government Entity Claims Team will review requests for reimbursements or pre-approval of proposed expenditures or actions and/or advances when presented. BP will have the right to audit reimbursements or the basis of advances. The Local Government Entity must maintain appropriate supporting documentation and provide BP reasonable access to those records. A Local Government Entity’s submission of claims for reimbursement to BP or requests for pre-approval of proposed expenditures or actions and/or advance payments through the Government Entity Claims Process shall not constitute a waiver by the Local Government Entity for claims for reimbursement of any other costs compensable under OPA. In addition, pre-approval of proposed expenditures or actions, advances, and/or payments by BP should not be viewed as a binding precedent that BP will pre-approve, advance, or reimburse any particular claims in the future.

The four categories below are intended to provide guidance to Local Government Entities regarding how the Government Entity Claims Team will consider different types of claims regarding their compensability under OPA. The Guidelines are intended to be illustrative, not inclusive of all costs in each category.

1. Costs of Increased or Additional Public Services

- Compensable costs include additional administrative costs, costs of additional personnel, and other out-of-pocket costs incurred for material and equipment that are incurred by a Local Government Entity as a result of its response to the Deepwater Horizon Incident.
- Compensable costs do not include ordinary administrative, personnel, or equipment/material costs (including costs to upgrade equipment) that the Local Government Entity customarily incurs and would have incurred regardless of the Deepwater Horizon Incident.
- Compensable costs are not expected to include leases or major capital purchases for things such as buildings, vehicles, or equipment unless otherwise pre-approved by BP.

2. **Response and Removal Costs**

- BP anticipates that all direct spill response operations, to the extent they have not already done so, will fully transition to the Unified Command. For this reason, BP anticipates claims for future Response and Removal Costs by Local Government Entities as part of the Government Entity Claims Process will decrease over time and eventually be unnecessary. Should a Local Government Entity intend to undertake or anticipate undertaking future response or removal actions, BP urges the Local Government Entity first to coordinate its efforts with the Federal On-Site Coordinator (FOSC) and Unified Command by contacting the Operations Section Chief or Deputy Incident Commander of the Unified Command Center.
- Response and Removal Costs to be considered for reimbursement are those costs incurred by a Local Government Entity to prevent, minimize, or mitigate impact to natural resources within its jurisdiction from the Deepwater Horizon Incident, including both preventative and clean-up measures.
- If a Local Government Entity has to date incurred Response and Removal Costs due to actions that (1) have not yet been reimbursed by BP, and (2) were performed in coordination with the FOSC or with BP, such costs should be submitted to and will be paid under the Government Entity Claims Process. Local Government Entities should include documentation indicating that the Response and Removal Costs were coordinated with the FOSC or BP.
- If a Local Government Entity has to date incurred Response and Removal Costs due to actions that were not coordinated with the FOSC or BP, then the Local Government Entity should submit claims for costs to BP through the Government Entity Claims Process and include an explanation for why the costs were necessary for the Deepwater Horizon Incident response or removal and were consistent with the approved Area Contingency Plan or other approved efforts already planned, performed, or underway by or at the direction of the Unified Command.

3. **Lost Revenue**

- Lost revenue claims to be considered for reimbursement include claims for revenue lost from taxes, royalties, rents, fees, and net profit shares that a Local Government Entity was unable to collect, and unable to mitigate, as a direct result of the Deepwater Horizon Incident.

4. **Costs BP Are Likely to View as Non-Reimbursable**

- Non-reimbursable costs, in addition to those mentioned above, may include those costs that were, in fact, not incurred as a direct result of the Deepwater Horizon Incident or that were not reasonably necessary to respond to the Deepwater Horizon Incident.

- Examples of costs that BP may view as non-reimbursable costs include:
 - costs for equipment, personnel, or materials that BP reasonably determined to have been duplicative of similar costs that the Local Government Entity would have had reason to know were being incurred by another Federal, State, or Local Government Entity as a result of the Deepwater Horizon Incident;
 - costs that constitute ordinary additions or upgrades to equipment or materials that are required for the Local Government Entity's normal day-to-day functioning;
 - costs that were already budgeted by the Local Government Entity before the Deepwater Horizon Incident (except for the additional costs of expediting acquisition of equipment, personnel, or materials in order to insure timely response to the Deepwater Horizon Incident);
 - costs not reasonably related to a legitimate Local Government Entity function or responsibility that is required to be met as a result of the Deepwater Horizon Incident.
- In all cases for which BP determines that it considers a cost to be non-reimbursable, BP is committed to good-faith discussions with the Local Government Entity regarding the reasons such costs were incurred.

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BP will notify the Local Government Entities in writing if this process is revised or modified.