

9-28-20  
For Court

## TITUS COUNTY – HAZARDOUS DUTY PAY

### GENERAL POLICY

SEPTEMBER 2020

Hazardous duty pay means additional pay for performing hazardous duty or work involving extreme physical hardship. Work duty that causes extreme physical discomfort, subjects an employee to exposure to hazards, and/or distress that cannot be adequately mitigated by protective devices, adjustments in scheduling, and other measures may qualify in some instances, if funds are available.

Per local government code, hazardous duty pay cannot be paid retroactively. Further elected officials are not eligible for hazardous duty pay. Recent changes in the Fair Labor Standards Act provide that hazardous duty pay is not subject to the calculations of overtime pay. Rather, hazardous duty pay is a supplement to the employee's gross wages. Employees are not eligible for hazardous duty pay when the employee is on an unpaid leave of absence. Employees who work in a hazardous duty position and then transfer to a non-hazardous duty position are no longer eligible for hazardous duty pay. Part-time employees earn hazardous duty pay at a proportional rate based on the ratio of their scheduled work hours per week to forty hours.

According to the IRS, hazardous duty pay is considered taxable income. Any amount paid to employees will be included on their W-2.

No law requires employers to pay hazardous duty pay. Both the amount of the pay and the conditions under which it might be paid are determined by the employer. In the event of an emergency or pandemic, the county judge may approve hazardous duty pay on a limited basis if funds are available. Such a decision would then be ratified by commissioners' court.

## TITUS COUNTY – PAYROLL POLICY

### CORONAVIRUS (COVID-10) PANDEMIC UPDATE

SEPTEMBER 2020

This update serves to communicate the decisions for payroll related items in light of the COVID-19 outbreak.

Coronavirus Disease is an infectious disease caused by a newly discovered coronavirus and has been declared by the World Health Organization as a global pandemic. The symptoms of COVID-19 can range from mild to severe illness and can cause complications including death. Most people infected with the disease will experience mild to moderate respiratory illness and recover without requiring special treatment. Older people, and those with underlying medical conditions such as cardiovascular disease, diabetes, chronic respiratory disease and cancer are more likely to develop serious illness. Coronavirus spreads primarily through droplets of saliva or discharge from the nose when an infected person coughs or sneezes and mainly between people who are in close contact with one another. There are no specific vaccines or treatments for this virus.

The Governor of the State of Texas issued a proclamation certifying that COVID-19 poses an imminent threat of disaster in the state and declared a state of disaster for all Texas counties. The leadership of Titus County led by the County Judge, the County Attorney, and the Emergency Preparedness Director as well as the Commissioners' Court have developed the following responses to this threat with regard to payroll costs.

There are currently two tests available for this virus: viral test and antibody test. The results of the viral test should be positive if the subject is currently infected while the results of the antibody test are anticipated to determine if the subject had previously been infected. Numerous testing opportunities were held in Titus County including tests facilitated by the National Guard.

#### CHANGES TO ASSIGNED DUTIES

The county investigator's duties were changed to allow for 90% of his time to be devoted to contact tracing. These duties were performed as directed by the Titus County Judge in conjunction with the Titus County Attorney based on the recommendations developed through the Titus County COVID-19 response team. Contract tracing was performed initially and until the number of cases in the county would no longer allow for such tracing.

The emergency manager's duty were changed to allow for 100% of his time to be devoted to the pandemic based on the recommendations developed through the Titus County COVID-19 response team.

These changes in duties were necessary to respond to the fact that at one point, Titus County had one of the highest per capita rates of Coronavirus in the state. These changes to the duties resulted in their time being substantially dedicated to the limiting the spread of COVID for these two employees.

### CORONAVIRUS RELIEF FUND GRANT

The Coronavirus Relief Fund guidance which was updated on September 2, 2020 states: "In recognition of the particular importance of public health and public safety works to local government responses to the public health emergency, Treasury has provided, as an administrative accommodation, that a local government may presume that public health and public safety employees meet the substantially dedicated test, unless the chief executive of the government determines that specific circumstances indicate otherwise. All costs of such employees may be covered using payment from the fund for services provided during the period that ends December 30, 2020."

### HAZARDOUS DUTY PAY

The amount of hazardous duty pay will be determined by the amount of grant or other funding available and the time frame in which the grant allows such payments. The amount of hazardous duty pay is also subject to any rules or guidelines provided by the grantor agency.

The following personnel, notwithstanding any other grant or funding requirements, are qualified to receive hazardous duty pay when available:

- 1) Employees of the Titus County Sheriff's Office are currently eligible to receive \$ 600 per month for the months of October, November and December. This hazardous duty pay will be paid with the second payroll of each month. Employees who are not employed for a full month will have their hazardous duty pay pro-rated based on the number of days worked while part-time employees will earn hazardous duty pay at a proportional rate based on the ratio of their scheduled work hours per week to forty hours.
- 2) Other licensed peace officers who serve as bailiffs, part-time bailiffs and investigators will earn hazardous duty pay based on the number of days court is in session each month or as directed by their supervisor based upon the type of work performed on a daily basis.
- 3) The procedures of the general hazardous duty pay policy of Titus County are included by reference.

This policy is subject to change **at any time** at the discretion of the County Judge based on changes, updates or new directions from the grantor agency. There is no assurance of these amounts to any employee as hazardous duty pay continues to be subject to the grantor agency requirements.

## TITUS COUNTY

### UPDATED JOB DUTIES RELATED TO THE CORONAVIRUS PANDEMIC

SEPTEMBER 2020

#### BACKGROUND

The Coronavirus Relief Fund (CRF) Grant provides funding to assist in mitigating COVID-19 related expenses that were not budgeted for in the most recent budget in effect as of March 27, 2020. These expenses include a broad range of covered items that must fit into at least one of the categories provided by the Texas Department of Emergency Management (TDEM). Seventy five percent of the allowable funds must be used in the first three categories. These categories are: 1) medical expenses, 2) public health expenses, 3) payroll expenses for public safety, public health, health care, human services and similar employees whose services are **substantially dedicated** to mitigating or responding to the COVID-19 public health emergency. Twenty five percent of the allowable funds are available to be used in the remaining categories which are number 4- 6. These categories are: 4) expenses of actions to facilitate compliance with COVID-19 related public health measures, 5) expenses associated with the provision of economic support in connect with the COVID-19 public health emergency, and 6) any other COVID-19 related expenses reasonably necessary to the function of government to satisfy the CRF eligibility criteria. Further, the 25% allowance can only be used in conjunction with the 75% allowance. For example, for a county that is allocated \$ 100,000 in total funds and planned to expend all of the funds, 75% (\$75,000) would have to be spent in order to access the remaining 25% (\$25,000).

The CRF guidance was updated on September 2, 2020 and expresses an **administrative accommodation** that a local government may presume that public health and public safety employees meet the substantially dedicated test, unless the chief executive of the government determines that specific circumstances indicate otherwise. This includes deputy sheriffs, emergency medical responders, medical staff at prisons and similar institutions, correctional and detention officers, and those who directly support such employees such as dispatchers and supervisory personnel.

The Titus County Commissioners Court has approved the use of CRF funds related to payroll for contact tracing, emergency preparedness, and hazardous duty pay as described in the updated payroll policy. This document serves as further documentation of job duties for specific employees who may be subject to hazardous duty pay.

#### ADDITIONAL JOB DUTIES AND POSSIBLE EXPOSURE TO COVID-19

Public safety employees knew the danger of their jobs when they decided to enter in this field; however, never before has a work hazard been a constant invisible threat that could unknowingly be carried home to family members, thereby threatening their lives and health until the COVID-19 pandemic.

Public safety employees have been called upon to respond and mitigate from the first day of the COVID-19 pandemic as they serve as the "frontline" of safety in Titus County. As such, they are classified as essential employees.

**DEPUTIES** – While efforts have been made to take minor calls/reports by phone, most reported emergencies **MUST** be responded to in person for various reasons. These calls vary in nature, and all are classified as a critical incident that require first responders to respond in person to the scene. Some examples are: major vehicle accidents, family violence or assault, and other situations that involve immediate risk to a person's life or property. Deputies respond to these types of situations daily and are required to collect evidence, and interview witnesses and suspects. These situations do not often allow for time to ask if the person in need is at risk or has tested positive for COVID-19. In some situations, the subject in need may not be capable of answering such questions due to the critical nature of the incident.

**JAILERS & DISPATCHERS** – These public safety employees receive persons (arrestees) who have been accused or convicted of a crime that may or may not have or have been exposed to COVID-19. Jailers and dispatchers interact with these subjects daily as well as respond to their medical, mental, physical (including physical restraint, when necessary),

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judicial and personal needs as required by Jail Standards placing them in close proximity to these subjects. Jailers and dispatchers are required to follow the COVID-19 protocols and relay this information to arrestees, inmates and family members outside the jail including explaining why family members cannot visit. In addition to assisting with the inmates, jailers and dispatchers are also required to interact with their families without knowledge of their COVID-19 status.

**SHERIFF SECRETARY & RECORDS CLERK** – These public safety employees are exposed to the inmates due to their handling of both incoming and outgoing inmate mail. They meet family members in the lobby, serve as receptionists for their department, handle evidence, meet with representatives of bonding companies, meet with inmates daily to get signatures and otherwise maintain appropriate paperwork and records, coordinate scheduling with courts and come into contact with inmates, deputies, jailers, dispatchers and other public safety employees on a daily basis.

**SHERIFF DEPARTMENT NURSE** – The nurse is responsible for managing the medical care for inmates and department employees. The inmates must be assessed to determine if more advanced medical care is needed which requires very close contact in some instances. The nurse monitors and administers medications, takes inmate vital signs, maintains records, and provides general nursing duties to inmates including those who may have been exposed to or possibly recovering from COVID-19.

**SHERIFF DEPARTMENT COMMISSARY CLERK & ASSISTANT** – These public safety employees are exposed to inmates when they take orders for food items, perform basic food preparation, packaging, labeling of food items. They are responsible for additional cleaning and assisting inmates with maintaining social distancing requirements.

#### **COUNTY ATTORNEY INVESTIGATOR**

The county attorney investigator is a licensed peace officer. He serves CPS citations, interviews witnesses, complainants, and suspects. He also serves as bailiff for county court and manages courthouse security. He is charged with protecting the safety of all those who attend county court including overseeing the social distancing requirements. All of these actions require that he is in direct contact with offenders who may or may not have been exposed to or suffering from COVID-19.

#### **COUNTY BAILIFF & ASSISTANT**

The bailiff for district court serves as the security officer for the district court. He serves pleas in person and works to screen attendees at drug court including the defendant and their families by checking temperatures, soliciting input from questionnaires, and overseeing social distancing and masking measures. He is also charged with additional cleaning duties of the district courtrooms between each hearing. When large attendance is anticipated, the bailiff is assisted by an assistant bailiff who also performs these same duties. Both of these employees are licensed peace officers.

#### **SUMMARY**

All of the public safety employees listed above are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. In each case, the hazardous duties delineated within this document are directly related to the COVID-19 pandemic. Hazardous duty pay is a necessary expenditure due to the public health emergency known as the COVID-19 pandemic as the public safety staff listed above are directed to further enable compliance with COVID-19 public health precautions through work such as enhanced sanitation and enforcing social distancing measures. The cost of the hazardous duty pay is for a **substantially different** use from any expected use of funds. These employees come in close contact with members of the public to enforce public safety. They are also essential employees as the very nature of their work requires that they are subjected to additional risks, both known and unknown, due to the COVID-19 outbreak. Titus County has not offered hazardous duty pay in the past. Hazardous duty pay was not included in the budget ending September 30, 2020.

*M. J. A.*