

Memorandum of Understanding
Between the Texas A&M Engineering Extension Service,
the Texas A&M Public Works Response Team,
and the Participating Agency/Employer

This Memorandum of Understanding (MOU) is entered into on the 1st day of October 2023 between Texas A&M Public Works Response Team (TX-PWRT), a division of the Texas A&M Engineering Extension Service (TEEX), and the Participating Agency/Employer (Employer): Hidalgo County, Pct 3 Commissioner located in Mission, Texas. This MOU is intended to be legally binding on the Parties.

TEEX is the lead agency for Emergency Support Function 3 (ESF 3) as defined in the State of Texas Emergency Management Basic Plan and is authorized by the Texas Division of Emergency Management (TDEM) to organize, develop, and manage the Texas A&M Public Works Response Team. Employer desires to provide personnel and/or equipment to serve in TX-PWRT as determined by TEEX. The parties therefore agree as follows:

I. PURPOSE

The purpose of this MOU is to delineate responsibilities and procedures for public work response activities under the authority of the State of Texas Emergency Management Plan

II. SCOPE

The provisions of this MOU apply to:

- A. Public work response activities performed at the request of the State and provided at the option of the Employer and the Member. These activities may be in conjunction with, or in preparation of, a state declaration of disaster.
- B. Training activities mandated by TEEX to maintain TX-PWRT operational readiness.

III. PERIOD OF PERFORMANCE

This MOU begins as of the date of the last party to sign and terminates August 31, 2024, or as described in section IX of this MOU.

IV. DEFINITIONS

For purposes of this MOU, the following definitions apply:

- A. Activation: The process of TEEX mobilizing Members to deploy to a designated disaster site.
- B. Alert: The process of TEEX informing Members that an event has occurred and that TX-PWRT may be activated at some point within the next 24-48 hours.
- C. Backfill: The assignment of personnel by the Employer to meet their minimum level of staffing to replace a deployed Member.
- D. Deactivation: The process of TEEX demobilizing Members upon notification from the State to stand down.
- E. Member: A rostered TX-PWRT member.

- F. Personnel Rehabilitation Period: The period sometimes allowed by the State for Members' rehabilitation to normal conditions of living following activation.
- G. Reasonable Personal Costs: Approved out-of-pocket expenses incurred by a member in the performance of his/her duties as a deployed Member.
- H. Rotational Model: Model used to determine which of the three teams (Red, White, Blue) is first up for deployment or on standby for the month.
- I. State: The State of Texas.
- J. TX-PWRT Sponsored Training: Training and/or exercises performed at the direction, control, and funding of TX-PWRT.
- K. TX-PWRT Sanctioned Training: Training and/or exercises performed at the direction, control, and funding of an Employer or Member in order to develop and maintain the TX-PWRT capabilities of the Member and TX-PWRT. TX-PWRT Sanctioned Training must be coordinated with TEEEX/TX-PWRT staff and receive written authorization to conduct such training prior to the start of the training.

V. RESPONSIBILITIES

A. TEEEX will:

1. Recruit and organize TX-PWRT according to guidelines prescribed in the Emergency Support Function 3 (ESF 3) of the State of Texas Emergency Management Basic Plan
2. Ensure that each Member meets the necessary licensing, certification, or other professional qualification requirements of his/her assigned position.
3. Provide administrative, financial and personnel management to TX-PWRT and perform all financial requirements as set forth in this MOU.
4. Reimburse payroll costs to the Employer for each activated Member and allowable backfill costs as stated in *Section VIII. A. Reimbursement of the Employer* and the *TX-PWRT Standard Pay Policy, Attachment A*.
5. Reimburse equipment use fee for each employer activated piece of equipment as stated in *Section VIII. C. Reimbursement of Employer Equipment* and the TX-PWRT Equipment Reimbursement Schedule by Type, Attachment C.
6. Provide training to Members consistent with the objectives of developing, upgrading, and maintaining individual skills, as identified in the position description requirements, necessary to maintain operational readiness.
7. Develop, implement, and exercise a notification and call-out system for Members.
8. Provide all personal protective equipment and uniform shirts required by TX-PWRT.
9. Provide tools and equipment necessary to conduct safe and effective TX-PWRT operations as listed in the current approved cache list.
10. Maintain all tools and equipment in the TX-PWRT cache in a ready state.
11. Coordinate between the State, the Employer, other relevant governmental and private entities, and the individual Members.
12. Maintain a primary contact list for all Members.

13. Maintain personnel files on all Members for the purposes of documenting training records, emergency notification, and other documentation as required by the State.
 14. Provide a roster of the Employer Members upon execution of this MOU and annually, in the month of July, see *Attachment D*.
 15. Provide a roster of the Employer Equipment upon execution of this MOU and annually, in the month of July, see *Attachment E*.
- B. The Employer will:
1. Provide approval of all its members participation in TX-PWRT training, meetings, and emergency response activities when fiscally reasonable to do so. Agency approval is provided by signing this MOU at the time the Member's administrative documents are submitted.
 2. Maintain a roster of all its personnel participating as Members.
 3. Maintain a roster of all its equipment available for deployment.
 4. Provide a primary point of contact to TEEX for the purpose of notification of TX-PWRT activities and other matters.
 5. Pay deployed Members in accordance with *Section VIII Administrative, Financial, and Personnel Management and Attachment A, the Public Works Response Team Standard Pay Policy*.
 6. Certify and submit personnel reimbursement claims and requested supporting documentation within 45 days of Deactivation of its Member(s).
 7. Certify and submit equipment reimbursement claims and requested supporting documentation within 45 days of Deactivation of its equipment.
- C. Participation Requirements for Members. Employer must notify TEEX TX-PWRT if Employer reasonably believes that a member does not meet any of the following:
1. Members must be in good standing with the Employer.
 2. Members must be of good moral character and may not have been convicted of any felony or any other criminal offense involving moral turpitude.
 3. Members serving in a TX-PWRT position that requires the individual to hold a license, registration, certificate, or other similar authorization to lawfully engage in an activity must hold such authorization, which must be current and validly issued.
 4. Members must follow all *TX-PWRT Standard Operating Guidelines (SOG)*
 5. Members must meet medical/fitness standards and be physically capable of performing assigned duties required in the position description requirements for the assigned position in a wide range of environments.
 6. **Members must maintain knowledge, skills, and abilities necessary to operate safely and effectively in the assigned position.**
 7. Members must advise the Employer of TX-PWRT activities that may require time off from work.

8. Members must notify TEEEX of any change in the notification process, i.e., address or phone number changes, and maintain current personnel profile in the "TX-PWRT Personnel Records System."
9. Members must ensure availability for immediate call-out during the period the Member's assigned team is first on the rotational model for call-out. Members who are not on the team that is first on the rotational model may be requested to fill the position of another team member who is not available to deploy to ensure the team is fully staffed for the mission.
10. Members must respond immediately to call-out with acceptance or refusal of current mission request and depart within 4 hours from time of call-out to the assigned point of assembly (POA).
11. Members must maintain all equipment issued by TX-PWRT in a ready state and advise TEEEX immediately of any lost, stolen, or damaged items.
12. Members must be prepared to operate in the disaster environment for not less than 14 consecutive days.
13. Members must follow the *TX-PWRT Policies and Procedures* as is currently in effect and as may be amended in the future and available online at <https://teex.org/txpwrt/>.

VI. PROCEDURES

A. Activation

1. Upon request from TDEM for disaster assistance, and/or determination that pre-positioning TX-PWRT is prudent, TEEEX will request activation of TX-PWRT from the State.
2. Upon request or permission from the State for disaster assistance, and/or determination that pre-positioning TX-PWRT is prudent, TEEEX will follow the steps in section VI.B.
3. TEEEX will communicate an Alert and/or activation notices to Members through the call-out system according to the current approved mobilization plan.

B. Mobilization, Deployment and Demobilization

1. TEEEX will notify Members of activation of TX-PWRT.
2. When TX-PWRT responds to such a mobilization request, the Members must depart with all equipment and personal gear to the designated POA within 4 hours of activation notice.
3. Upon arrival at the POA, Members will be provided initial briefings, maps, food, housing, and any other items essential to the initial set-up and support of TX-PWRT.
4. When TX-PWRT is activated, members will provide transportation for themselves and all necessary equipment to the pre-designated point of assembly (POA).
5. Members will provide transportation from the POA to the disaster site and transportation on the return trip.
6. TEEEX will demobilize Members and equipment to the original POA upon completion of the PWRT mission.

C. Management

1. TEEEX maintains overall management, command, and control of all TX-PWRT resources

and operations.

2. Tactical deployment of TX-PWRT will be under the direction of the local Incident Commander and the Task Force Leader(s) assigned to the incident.

VII. TRAINING AND EXERCISES

A. TX-PWRT Sponsored Training

Periodically Members will be requested or required to attend TX-PWRT Sponsored Training. TX-PWRT Sponsored Training will be performed at the direction, control, and funding of TX-PWRT in order to develop the technical skills of Members.

B. TX-PWRT Sanctioned Training

Periodically Members will be required and/or invited to attend PWRT Sanctioned Training. PWRT Sanctioned Training may be performed at the direction, control, and funding of TEEX, the Employer, or the State in order to develop and maintain the capabilities of TX-PWRT.

C. Non-Sponsored and/or Non-Sanctioned Training and Exercises

Non-sponsored and/or non-sanctioned training and/or exercises may be performed at the direction, control and funding of the Employer or Member in order to develop and maintain the capabilities of TX-PWRT.

D. Minimum Training Requirements

Each Member must maintain the skills and abilities identified in the position description requirements. Each Member must attend one of the scheduled Full-Scale exercises or Mobility Exercises and one Regional Training Event annually. Each Member must attend a minimum of 50% of the PWRT Sponsored Training and PWRT Sanctioned Training opportunities provided for his or her assigned TX-PWRT position. Failure to attend a minimum of 50% of those training opportunities will result in dismissal from TX-PWRT. Exceptions may be granted at the discretion of TEEX or the Response Team Leader.

VIII. ADMINISTRATIVE, FINANCIAL, PERSONNEL MANAGEMENT, AND EQUIPMENT MANAGEMENT

A. Reimbursement of the Employer

1. TEEX will reimburse the Employer for each of its employees activated as a member for payroll and associated costs during the Members' participation in State disaster deployments. This reimbursement will be in accordance with the *TX-PWRT Pay Policy* and will require the Employer to submit supporting documentation to TEEX prior to reimbursement.
2. TEEX will reimburse the Employer for the cost of Backfilling Members while activated. This will consist of expenses generated by the replacement of a deployed Member on his/her normally scheduled duty period/day. Backfill costs incurred by the Employer will be reimbursable only to the extent that the costs are in excess of the costs that would have been incurred had the Member not been deployed. TEEX cannot pay for hours Backfilled other than those that coincide with a member's scheduled on-duty hours. Backfill reimbursement is available only for positions that are normally Backfilled by the Employer.
3. TEEX will reimburse the Employer for salaries and backfill expenses of any deployed Member who would be required to return to regularly scheduled duty during the Personnel Rehabilitation Period described in the demobilization order. If the deployed Member's regularly scheduled shift begins or ends within the identified Personnel Rehabilitation Period, the Employer may give the deployed Member that time off with pay and backfill his/her position. If Members use time from a paid leave bank during the Personnel Rehabilitation Period, or if a member is not normally scheduled to work

during the identified Personnel Rehabilitation Period, then no reimbursement will be made for that Member. TEEEX will determine the Personnel Rehabilitation Period that will apply to each deployment based on the demobilization order for that deployment.

B. Other Reimbursements

1. TEEEX will reimburse Members for Reasonable Personal Costs associated with operations and maintenance of TX-PWRT during a State activation. Itemized receipts are required and should not include Texas Hotel Occupancy taxes, alcohol, tips, or gratuities. All receipts must be submitted to the TEEEX-ITSI Business Office within 15 days of Deactivation.
2. TEEEX will reimburse Members for reasonable travel costs associated with approved training in accordance with the established *TX-PWRT travel policy*. Itemized receipts are required and should not include Texas Hotel Occupancy taxes as they are not reimbursable. Receipts should be submitted to the TEEEX-ITSI Business Office within 15 days from the end of the trip.
3. TEEEX will reimburse on a replacement basis for emergency procurement of TX-PWRT materials, equipment and supplies purchased and used or consumed by Members in providing requested assistance. Advance approval by TX-PWRT leadership must be obtained and itemized receipts for such items must be submitted to TEEEX. Such materials, equipment and supplies are the property of TEEEX and must be returned to TEEEX upon deactivation or return from training.
4. No Member or the Employer will be reimbursed for costs incurred by activations that are outside the scope of this MOU.
5. All financial commitments herein are made subject to availability of funds from the State.
6. TEEEX will perform all duties of an employer in relation to a member who is injured and eligible to receive benefits under *Chapter 501 of the Texas Labor Code*.

C. Reimbursement of Employer Equipment

1. TEEEX will reimburse the Employer for actual hours used of each piece of equipment utilized and associated costs during the Employer's participation in State deployments. This reimbursement will be in accordance with the *TX-PWRT Equipment Reimbursement Schedule by Type* and will require the Employer to submit supporting documentation to TEEEX prior to reimbursement. For Equipment Fee schedule see: <https://www.fema.gov/assistance/public/schedule-equipment-rates>
2. TEEEX will reimburse on a reasonable basis for emergency repairs of equipment and supplies purchased and used or consumed by Employer in providing requested assistance. Advance approval by TX-PWRT leadership must be obtained and itemized receipts for such items must be submitted to TEEEX.
3. No Employer will be reimbursed for costs incurred by activations that are outside the scope of this MOU.
4. All financial commitments herein are made subject to availability of funds from the state.

IX. CONDITIONS, AMENDMENTS, AND TERMINATION

- A. This MOU may be modified or amended only with the signed written agreement of both parties, and all amendments will be incorporated into this MOU.

- B. Any party, upon 30 day written notice, may terminate this MOU.
- C. TEEEX complies with the provisions of *Executive Order 11246 of Sept. 24, 1965, as amended* and with the rules, regulations, and relevant orders of the Secretary of Labor. To that end, TEEEX will not discriminate against any employee or Member on the grounds of race, color, religion, sex, or national origin. In addition, the use of state or federal facilities, services, and supplies will be compliant with regulations prohibiting duplication of benefits and guaranteeing nondiscrimination. Distribution of supplies, provisions of technical assistance and other relief assistance activities will be accomplished in an equitable and impartial manner, without discrimination on a basis prohibited by Texas or federal law or on a basis of economic status.

X. LIABILITY AND WORKERS' COMPENSATION FOR STATE ACTIVATION /AND TRAINING

- A. During any period in which TX-PWRT is activated by the State, or during any TX-PWRT Sponsored Training or TX-PWRT Sanctioned Training, Members who are not employees of a member of The Texas A&M University System or another agency of the State will be included in the coverage provided under *Chapter 501 of the Texas Labor Code* in the same manner as an employee, as defined by *Section 501.001*. Services with TX-PWRT by an activated Member who is a state employee are considered to be in the course and scope of the employee's regular employment with the State.

XI. LIABILITY AND WORKERS' COMPENSATION FOR NON-SPONSORED/SANCTIONED TRAINING

- A. During non-TX-PWRT training and exercises, Members who are not employees of a member of The Texas A&M University System or another agency of the State will not be included in the same workers' compensation coverage afforded Members that are activated or attending TX-PWRT Sponsored Training or TX-PWRT Sanctioned Training.

XII. GENERAL PROVISIONS

- A. The Constitution and the substantive laws of the State (and not its conflicts of law principles) govern all matters arising out of or relating to this MOU and all of the transactions it contemplates.
- B. No employer-employee, partnership, agency, or joint venture relationship is created by this MOU or by Member or Employer's service to TEEEX. Neither party may bind the other or otherwise act in any way as the representative of the other, unless otherwise expressly agreed to in a writing signed by authorized representatives of both parties before any such act or representation.
- C. Any provision of this MOU that conflicts with a law or regulation of the United States or the State is null and void to the extent of the conflict.
- D. Any notices required or permitted under this MOU will be deemed given (a) three business days after it is sent by certified or registered mail, return receipt requested, (b) the next business day after it is sent by overnight carrier, (c) on the date sent by facsimile or email transmission with confirmation of transmission and receipt, if sent during the recipient's normal business hours and if not, on the next business day, or (d) on the date of delivery if delivered personally, and in each case, addressed to the intended recipient at the address below or such other address as the intended recipient may specify in writing:

a. TEEX: TEEX TX-PWRT, 200 Technology Way, College Station, TX 77845-3424

Employer: Hidalgo County Precinct 3 Commissioner, 724 Breyfogle Rd, Mission, TX 78574

- E. This MOU is assignable only with the written consent of both parties.
- F. TEEX is an agency of the state of Texas and under the Constitution and the laws of the state of Texas possesses certain rights and privileges, is subject to certain limitations and restrictions, and only has authority as is granted to it under the Constitution and the laws of the state of Texas. Employer expressly acknowledges that TEEX is an agency of the state of Texas. Nothing in this MOU waives or relinquishes either party's right to claim any exemptions, privileges, and immunities as may be provided by law.
- G. The failure of either party at any time to require performance by the other party of any provision of this MOU will in no way affect the right to require such performance at any time thereafter nor will the waiver by either party of a breach of any provision be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself.
- H. Each provision of this MOU is severable. If any provision is rendered invalid, illegal, or unenforceable by statute or regulations or declared null and void by any court of competent jurisdiction, the remaining provisions will remain in full force and effect as if such invalid, illegal, and unenforceable provision had never been contained herein.
- I. If either party fails to fulfill its obligations under this MOU, when such failure is due to an act of God, or other circumstance beyond its reasonable control, including but not limited to fire, flood, civil commotion, riots, war, revolution, acts of foreign or domestic terrorism, employee strikes, epidemics, sabotage embargos, or any other circumstances of like character (force majeure occurrence), then the other party will excuse the failure for the duration of the event and for such a time as is reasonable to enable the parties to resume performance under this MOU, provided however, that in no event will such time extend for more than 30 days.
- J. Employer acknowledges that TEEX is obligated to strictly comply with the Texas Public Information Act, Chapter 552, *Texas Government Code*, in responding to any request for public information pertaining to this MOU, as well as any other disclosure of information required by applicable Texas law.
- K. Each Party acknowledges that all rights in any trademarks, service marks, slogans, logos, designs, and other similar means of distinction associated with that Party (its "Marks"), including all goodwill pertaining to the Marks, are the sole property of that Party. Neither Party may use the Marks of the other without the advance written consent of that Party, except that each Party may use the name of the other Party in factual statements that, in context, are not misleading.
- L. Pursuant to Section 85.18(b), Texas Education Code, venue for a suit filed against TEEX is in the county in which the primary office of the chief executive officer of TEEX is located. At the execution of this MOU, such county is Brazos County, Texas.
- M. This MOU along with any attachments constitute the entire understanding between the parties as to the matters contained in this MOU and supersedes all other written and oral agreements between the parties as to those matters. The parties may execute agreements, but those will not alter this MOU unless expressly stated in writing.

SIGNATURES TO FOLLOW ON NEXT PAGE

Attachment A
Public Works Response Team
Standard Pay Policy

I. Scope

The provisions of this policy apply to all TX-PWRT members and Texas A&M Engineering Extension Service (TEEX) personnel assigned to the TX-PWRT program.

II. Purpose

The purpose of this document is to delineate the policy and procedures for payment and/or reimbursement of payroll expenses to include salaries/wages and associated fringe benefits incurred during all federal and state activations of a TX-PWRT member.

III. Pay Rate

- A. TX-PWRT will reimburse the Employer for the participation of each of their activated TX-PWRT members at the current hourly rate or salary at the time of deployment and identified on the payroll printout provided by the Employer requesting salary reimbursement. TX-PWRT may also reimburse the Employer for the allocable portion of fringe benefits paid to or on behalf of the TX-PWRT member during the period of activation. Member work schedules, payroll policies, payroll and benefit documentation must be retained by the Employer for a period of three years following the final payment to TEEX by TDEM in accordance with 2 CRF 200.333 – Retention Requirements for Records. TEEX will notify Employers when payment has been made.
- B. As an affiliated member, TX-PWRT members who are self-employed or not employed by an Employer will be paid at a rate identified with his/her TX-PWRT position. The affiliated member's 40-hour workweek will begin upon activation. The affiliated member will receive the standard base rate of pay for the first 40 hours worked within each workweek of a deployment. Hours in excess of 40 hours each week will be paid at 1 ½ time the member's base rate of pay. Affiliated members are not eligible for Personnel Rehabilitation pay.
- C. TEEX employees with positions on TX-PWRT will be paid in accordance with Section IV below. Payroll printouts and fringe benefits documentation will be included in the reimbursement process.

IV. Deployment Work Shift

- A. Every day is considered a workday during the Deployment until the activation is over, and the PWRT returns to its original Point of Assembly (otherwise known as "portal to portal"). Therefore, Saturday, Sunday, holidays, and other scheduled days off are also considered workdays during the period of activation.
- B. All individuals are assured pay for base hours of work, mobilization and demobilization, travel, or standby at the appropriate rate of pay for each workday.
- C. During the deployment period from activation through de-activation, all FLSA-exempt and non-FLSA exempt TX-PWRT members will receive the standard base rate of pay for all hours they are scheduled to be on duty during a workday. A workday is defined from midnight to midnight. Additional hours during this day not scheduled on duty will be compensated in accordance with 44 CFR 208.39 and Employer pay policies. Kelly days are considered off duty hours.
- D. 44 CFR 208.39 allows Participating Agency/Employers whose members follow the Public Safety Exemption 29 U.S.C. 207(k) have the option of converting deployed members to a standard FLSA 40-hour week during the deployment period. The conversion does not apply to backfill or rehab time.

V. Ordered Standby

Compensable standby will be limited to those times when an individual is held, by direction or orders, in a specific location, fully outfitted and ready for assignment.

Attachment C
Public Works Response Team
FEMA Schedule of Equipment Rates

<https://www.fema.gov/assistance/public/tools-resources/schedule-equipment-rates>

Attachment E
Public Works Response Team
Equipment Roster

IV. Scope

ATTACHMENT 'E' will be used for all Member Employer's equipment that deploys with TX-PWRT Members during activation. Texas A&M Engineering Extension Service (TEEX) will reimburse the Member Employer for each hour of use of each piece of equipment committed to the TX-PWRT program during team deployments based on the most current version of the "FEMA Schedule of Equipment Rates" – See Attachment 'C'.

V. Purpose

The purpose of this document is to provide a list of equipment that may be assigned for the use of the TX-PWRT during deployments. This list of equipment is provided; 1.) upon the date of the original signing of this MOU; 2.) upon deployment of the TX-PWRT; and 2.) each July thereafter, or until the MOU terminates.

VI. Equipment List

Hidalgo County Precinct 3 Commissioner

Date of Deployment	Equipment Description	Equipment ID#	Date of Demobilization	Notes

Use extra sheets if necessary.