

EADRA GUIDANCE DOCUMENT

Cost Shared Compensation under the Emergency Animal Disease Response Agreement (EADRA)

This guide explains the terms “Compensation” and “Cost Sharing” for a cost shared response to an EAD under the [EADRA](#), including the application of ‘top-up’ payments. It should be read in conjunction with the EADRA. **If there is any conflict between the EADRA and this guide, then the provisions of the EADRA will take precedence.**

Background

Clauses and sections of the EADRA that are relevant to cost sharing of compensation include but are not restricted to:

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|---------------|----------------------------|
| a. Clause 2.1 | Definitions |
| b. Clause 7 | Developing An EADRP |
| c. Clause 10 | Principles of Cost Sharing |
| d. Clause 11 | Funding an EADRP |
| e. Clause 12 | Consultations |
| f. Schedule 6 | Cost Sharing |

The convention in legal documents is to use a capital first letter to indicate that a word is being used in the sense that is defined in the document’s definition clause (e.g. **clause 2.1** of the EADRA). When a word is used with a small first letter, it indicates that it is being used in the sense that is defined in a standard dictionary or in ordinary speech or usage.

Compensation and cost sharing

As defined (**clause 2.1**) In the EADRA:

- **“Compensation”** has the meaning given by the legislation applicable of the Lead Agency(s).
- **“Cost Sharing”** is “the process of Government and Industry Parties’ proportional funding of an EADRP as described in this Deed.”
- **“Lead Agency(s)”** means the department or agency within the Commonwealth and/or each State(s) or Territory(s) which is responsible for leading the conduct of an EADRP within the Commonwealth and/or a State(s) or Territory(s) in accordance with the procedures set out in Part A of Schedule 4.

The payment of compensation is determined and managed according to the relevant jurisdictional legislation and processes. The implementation of these processes may vary slightly from state to state. Information on the current jurisdictional legislation that determines when, where, how, to whom and how much compensation is payable can be found by contacting the relevant jurisdictional authority or Lead Agency.

The chief veterinary officer/s (CVO/s) of the Lead Agency/s is responsible for developing an EAD Response Plan (EADRP/s) for a particular outbreak. **Clause 7.1 (a) (v)** of the Deed requires that the EADRP/s describes which response costs (including compensation, if appropriate) are to be cost shared.

The Consultative Committee on Emergency Animal Disease (CCEAD), convened for the incident, assesses the EADRP/s for technical soundness and consistency with AUSVETPLAN and endorses it or seeks modifications. The overall operational management of the incident rests with the CVO of the affected jurisdiction, with oversight by the CCEAD.

The National Management Group (NMG) decides on whether cost sharing will be invoked (following advice from the CCEAD). Cost sharing of the eligible costs of a response to an EAD is activated if NMG (on the advice of CCEAD), approves the EADRP/s submitted by the Lead Agency/s.

The EADRA does not determine whether compensation will be paid. This is always determined by jurisdictional legislation and processes. **The EADRA determines how the cost sharing of agreed response costs (including compensation, if appropriate) will be applied (clause 10 and Schedule 6).**

If any individual, group or organisation wishes to determine whether a particular item, livestock or property is likely to be compensable, they need to contact the relevant jurisdictional authority.

The Lead Agency/s will request cost sharing of eligible response costs in their EADRP/s, and NMG can then consider approving the cost sharing of the compensation on recommendation by CCEAD.

It is possible that compensation may be required under jurisdictional legislation but NMG may decide not to cost share the compensation. In this case, the combat jurisdiction will be liable for the compensation costs.

Lead Agencies may be required, under their legislation or for other reasons (such as to assist recovery), to provide other payments not eligible for cost sharing under the EADRA.

Jurisdictional legislation specifies that compensation is not paid in some circumstances. These include loss of profit, breach of contract, loss of production and consequential loss (**Schedule 6 Part 3.4**). Compensation may also be withheld if an owner's actions or lack of action have contributed to the spread of an EAD (e.g. failure to promptly report an EAD or contravention of movement controls), or if an owner has been convicted for a breach of jurisdictional legislation or regulations and/or fraud relating to an EAD. The EADRA also excludes cost sharing of compensation (see **Schedule 6 Part 3.4**) in these circumstances.

Clause 10.6 (d)¹ of the EADRA allows the NMG to agree to cost share any response cost provided that all the Relevant Parties are in agreement.

Cost shared payments

'Initial payments'

The initial compensation payment is made following the direction by state/territory authorities to destroy infected susceptible animals or contaminated product. The payment is for the market value of animals and property ordered for destruction, and animals that die, as a result of the emergency disease. It aims to encourage reporting of potential infection by removing disincentives to report an emergency disease.

¹ Clause 10.6 of the EADRA states "The principles for Cost Sharing will also apply to: (d) other costs as agreed by the Relevant Parties"

'Top-up' payments

The 'top-up', payment recognises that if the market prices rise between destocking and the time when the producer is eligible to restock, additional funds may be required to allow the purchase of equivalent replacement animals.

Circumstances where top-up payments may be available:

1. Pre-approved purchases to restock the original property or a property owned or managed by the owner within the same jurisdiction (except where the owner was agisting stock); and
2. The purchase of replacement livestock of the same species, class/category, to the value of the destroyed herd/flock in the current market (i.e. the additional cost to purchase equivalent numbers of the same class, age and sex of livestock); or
3. Towards the purchase of another category or breed from the original livestock (up to an equivalent value of the destroyed herd/flock) e.g.:
 - a. a feedlot may need to purchase weaners when original stock ranged in age from weaners to steers almost ready for market, or
 - b. a producer may decide to restock with breeders rather than fatteners or vice versa.

Top up payments:

4. Do not include transaction and transport costs.
5. Are not available if the owner decides not to restock and cannot be transferred to other parties.
6. Must be approved by the Lead Agency, prior to the completion of the Proof of Freedom Phase or within a designated restocking period for the EADRP as agreed by the National Management Group.