

STATE OF OREGON

FINANCIAL EMERGENCY MANAGEMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE CONTROLLER'S DIVISION
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CHAPTER ONE: AN OVERVIEW

Introduction

State and local governments involved in disaster recovery work should establish policies for fiscal operations under emergency circumstances. Just as it is important that an incident management structure be in place and ready to implement prior to an event, it is necessary that essential accountability mechanisms be designed and ready to implement prior to an event. Emergency plans and policies should consider financial, budget and payroll operations; records management; purchasing and contracting; and complying with federal and state laws and regulations.

The purpose of this document is to provide a summary of the emergency declaration process; an overview of FEMA dos and don'ts, as well as the things you can do right now in preparation for an emergency; best practices for emergency recordkeeping; and a host of factors that should be considered before making emergency procurements.

The Emergency Declaration Process

In Oregon, local governments are responsible for planning, preparing and responding to emergencies. State government is also responsible for planning and preparing for emergencies; however, the State does not assume authority or responsibility for responding to an emergency unless the appropriate response is beyond the capability of the city and county in which it occurs, the city or county fails to act, or the emergency involves two or more counties (ORS 401.015).

The Governor may declare a state of emergency by proclamation at the request of a county governing body or after determining that an emergency has occurred or is imminent. All requests by a county governing body that the Governor declare an emergency must be sent to the Office of Emergency Management. Cities must submit requests through the governing body of the county in which the majority of the city's property is located (ORS 401.055).

If it is evident the disaster is of such magnitude and severity that the situation is or will be beyond the combined capabilities of the local and State resources, the Governor may request that the President declare an emergency or major disaster exists in the state. Once a state of emergency is declared by the President, the state becomes eligible for assistance from the federal government.

Assistance from the federal government to help communities and states respond to and recover from a disaster is available under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. §5121, et seq. (the Stafford Act). Communities are responsible for the protection of their residents, and local emergency response forces will always be the first line of defense when a disaster strikes. The intent of the Stafford Act is that federal assistance be *supplemental* to local and state efforts aided by private relief organizations.

Under the Public Assistance (PA) Program, which is authorized by the Stafford Act, the Federal Emergency Management Agency (FEMA) awards grants to assist State and local governments and certain private nonprofit entities with the response to and recovery from disasters. Specifically, the program provides assistance for (1) debris removal, (2) implementation of emergency protective measures, and (3) permanent restoration of infrastructure. The program also encourages protection from future damage by providing assistance for hazard mitigation measures during the recovery process. The Federal share of these expenses cannot be less than 75 percent of *eligible* costs.

The Oregon Emergency Management Division of the Oregon Military Department is designated as the sole activity of the State of Oregon for the purpose of negotiating agreements with FEMA or other appropriate federal agency, on behalf of the State, for the acquisition of federal funds for the purpose of providing emergency program management and emergency services. All city or county emergency management programs, emergency service agencies and state agencies applying for such funds must coordinate with the Office of Emergency Management on development of proposals and submit applications to the agency to be reviewed or processed, or both (ORS 401.280).

CHAPTER TWO: ACTIONS YOU CAN TAKE NOW

It is important to recognize not every incident will result in the declaration of a state or national emergency. Some incidents can be managed entirely by using the local resources of the city or county government in which the incident occurs. Other situations will require an emergency declaration from the Governor because the required response exceeds the capacity of the local government. Only when an incident is so severe that the required response exceeds the combined capabilities of state and local governments will the Governor request an emergency declaration from the President.

Thus, it may not be clear at the onset whether aid from the state and the federal government is required. From a fiscal perspective, however, it makes good business sense to “act” as if such aid will be requested, meaning it is imperative that procurement, financial and accounting activities be conducted as if a national emergency has been declared and that the highest standards of accountability apply.

1. Understand Your Agency’s Role

Fiscal managers need to understand their agency’s emergency operations and priorities. The following list of questions provides a good starting point.

- a. Does your agency have a fully articulated emergency plan that addresses initial response and recovery activities? Does the plan cover resource and financial management? Have fiscal policies been updated to reflect emergency circumstances?
- b. What types of emergency recovery activities is your agency expected to provide? Are these activities limited to supporting only your agency, or does your agency provide assistance to other agencies and organizations?
- c. Are you familiar with the emergency command structure within your agency?
- d. Do you understand the role of Oregon Emergency Management (OEM) and how your agency interacts with OEM? <http://www.oregon.gov/OMD/OEM/index.shtml>
- e. Have you attended formal OEM training?
- f. In addition to FEMA grants, are there other federal emergency programs applicable to your agency’s mission/activities?
- g. What other funding sources are available, such as insurance proceeds, to help offset the cost of providing emergency services? (FEMA will reduce otherwise eligible project costs by the actual or anticipated insurance recoveries.)
- h. Has your agency gathered information about historic structures that might be damaged and structures that may have environmental considerations?
- i. Has your agency entered into partnership agreements with local nonprofits to provide services during an emergency situation?
- j. Does your management understand that its emergency expenditures are subject to audit by federal, state and internal auditors?

- k. What are the risks related to collecting/processing/recording revenues, such as federal grant awards, licensing fees, tax revenues during an emergency?
- l. Does your agency maintain a non-receipted Treasury account? Have emergency check issuance procedures been developed and communicated?

2. Document, Document, Document

“A good accountant knows that documentation of costs should be an important part of any request for reimbursement. What is different here is the kind of documentation that may be needed and the long time period that may be involved in reviews of that documentation. After any major disaster strikes, you should expect to be dealing with FEMA for anywhere from five to seven years before the incident is closed. FEMA staff that you will be working with will change. FEMA rules will change. Items that have been approved at one level will be denied at another level. The only protection you have is to document everything that is humanly possible to document.” -- **Ed Harrington, Controller for the City and County of San Francisco and a past president of the Government Finance Officers Association (GFOA), *Working with FEMA: (I'm from the government—I'm here to help)*, Government Finance Review, December 2007.**

Mr. Harrington makes the following suggestion. Think about placing disposable cameras in vehicles that might be called out for emergency recovery efforts and train people to use them. Better yet, put an entire emergency kit in the glove compartment of the vehicles. Besides the disposable camera, include forms that can be used to document the *location* of the emergency work, the *employees* at the location, the *hours* worked (start and finish times by date) and any *equipment* used (start and finish times by date).

3. Get to Know the FEMA Rules

What may appear straightforward from a conceptual viewpoint may not play out in real life. In his article on working with FEMA, Mr. Harrington's highlighted some of the sticking points.

- a. **Replacement versus Improvement:** Generally speaking, FEMA will reimburse expenditures to “replace” what was damaged but not to “improve” it. This principle seems simple enough up front, but it can have unexpected consequences. What happens when the alternative for improvement turns out to be smarter and cheaper than rebuilding/replacing the damaged item?

Harrington's real life example illustrates this point. After the last earthquake, the City of San Francisco had many buildings with cracks in the walls. City leaders met with FEMA and learned that it was FEMA's policy to pay for the crack to be repaired and for the wall to be repainted – but FEMA would pay to paint only one foot on each side of the crack. Painting the entire wall would be considered an improvement, meaning FEMA would pay nothing, not even the pro-rated cost. In the end, the City determined it was easier and more sensible to have the walls repaired and forego FEMA reimbursement.

- b. **Facilities:** Building repairs will not be eligible for FEMA reimbursement unless the building was “active” at the time of the emergency. This means an older building, not in use, cannot be repaired or replaced with FEMA funding. It also means a *new facility under construction* is not eligible for FEMA reimbursement

- c. **Force Account:** When it comes to employee compensation, it should be understood that FEMA pays only additional, disaster-related costs. What does this mean? It means that it might be cheaper to hire contractors than assign work to agency staff.
- d. **Contractors:** FEMA only pays additional, disaster-related costs. When staff is reassigned to do clean-up work during regular hours, FEMA will not reimburse the cost because the agency is not seen as incurring any additional costs. And, if the agency pays staff overtime to catch up on their normal work, the agency will not be reimbursed because that work is not disaster-related. How can you avoid these issues? Hire contractors – as long as their bills are reasonable.
- e. **Overtime Policy:** Generally, salaried staff is not paid overtime. However, if an agency's accounting manager ends up working seven-day weeks, 10 or more hours a day, over an extended period in the aftermath of an emergency, it might be reasonable to pay a higher rate than the base salary. Without a "pre-existing" policy, FEMA may not reimburse the difference.

The GFOA recommends that any provision for changes in compensation levels for salaried staff expected to work long hours in the event of a disaster should be properly approved and documented *before* a disaster occurs.

- f. **Equipment:** Do not try to charge equipment usage for 24 hours simply because a piece of equipment was located at the disaster site. Equipment usage should coincide with the work hours recorded by the equipment operator.
- g. **Legal Responsibility:** What happens when small nonprofit organizations provide assistance during an emergency? Many of them do not have the necessary staff and expertise to obtain the documentation and complete the required forms for expense reimbursement. A state agency cannot request reimbursement on behalf of a nonprofit because it is not the agency's legal responsibility. One approach that might solve this problem is to negotiate a contract with each nonprofit *before* disaster strikes. The contract obligates the state or local government agency to pay for the services provided by the nonprofit, which should make the costs eligible for reimbursement to the agency.
- h. **Reasonable Expectations:** State and local government agencies should expect that not all costs claimed will be reimbursed. Initial funding can be lost upon audit, and it may take several years before the audits are settled. During that time, many things may change that can affect the outcome. Denial decisions can be appealed. However, governmental agencies need to exercise good judgment about the frequency of appeals and the amounts involved, so not to jeopardize the chances of prevailing in the larger disputes. In the meantime, agencies may need to establish contingency accounts.

A general recommendation for any state or local government finance officer is to read the Public Assistance Guide, FEMA 322, and the Public Assistance Applicant Handbook, FEMA 323. To learn more, please visit <http://www.fema.gov/government/grant/pa/index.shtm>.

CHAPTER THREE: RECORDKEEPING AND AUDITS

The importance of maintaining a complete and accurate set of records for each FEMA project cannot be over-emphasized. The documentation should describe the “who, what, when, where, why, and how much” for each item of disaster-related work. Good documentation facilitates project formulation, validation, approval, and funding.

1. Best Documentation Practices

Fiscal managers should establish the following controls to ensure complete and accurate project records.

- a. **Designate a central recordkeeper or recordkeeping unit** to coordinate the compilation and filing of records. It is the responsibility of this person or unit to identify and consult with the FEMA Project Coordinator.

Establish a separate and distinct accounting structure before an emergency strikes. At a minimum, the tracking system should provide a mechanism or code for each internal division to track time and costs for emergency work. More specific coding can be added as the event unfolds to designate the different locations and various cost categories that will be needed for each Project Worksheet (PW).

***NOTE:** The PW is the essential mechanism by which FEMA reviews and approves costs. On the first day of an emergency, FEMA may allow separate PWs for all police work, all fire-related work, all emergency medical work, all public works and other immediate work. After that, FEMA will require very detailed PWs down to the specific geographic location. Agencies must be able to track emergency costs, including force account expenses, contractor costs and any other expenses, at the PW level to ensure reimbursement. For more information, please visit these Web sites:*

<http://www.fema.gov/government/grant/pa/9500toc.shtm>

<http://www.fema.gov/government/grant/pa/padocs.shtm>

<http://www.fema.gov/government/grant/pa/index.shtm>

In addition, each FEMA contract or disaster event may need its own special revenue fund, depending on the individual agency and the nature of the emergency.

- b. **Determine which federal agency’s rules apply.** Because federal assistance may come from more than one federal agency (e.g., both the Federal Highway Administration and FEMA), it is important to determine from the start which agency’s rules apply to a given project.

c. **Collaborate with your agency's OEM Coordinator to ensure that:**

- Project Worksheets (PW) are developed and submitted to OEM for review prior to submission to FEMA for approval.

***NOTE:** Applicants have 60 days following the first substantive meeting, usually a "Kickoff Meeting," with FEMA to identify and report damaged facilities, etc. The PW is the primary form used to document the location, damage description and dimensions, scope of work and cost estimates for each project. It is also the basis for the federal grant.*

- A separate file is established for each PW and the corresponding geographical site where disaster-related work has been or will be performed.
- Each recorded expenditure is supported by adequate documentation, including evidence of proper authorization in accordance with the entity's emergency fiscal management policies.
- All documentation pertaining to a project is filed with the corresponding PW and maintained as the permanent record of the project. Such records include the following:
 - i. Completed PW
 - ii. Completed Special Considerations questions form
 - iii. Estimated and actual costs
 - iv. Before and after photographs
 - v. Force account labor
 - vi. Force account equipment usage
 - vii. Precise information on materials used and purchases
 - viii. Insurance information
 - ix. Environmental and/or historic alternatives and hazard mitigation opportunities considered
 - x. Environmental review documents
 - xi. Receipt and disbursement documents
 - xii. Records of donated goods and volunteer services, if any

These records become the basis for verification of the accuracy of project cost estimates during validation of *small projects*, reconciliation of costs for *large projects*, and *audits*.

- The documentation for contracts let under FEMA projects includes the rationale for the method of procurement (telephone quotes, written quotes, formal bids); the basis for contractor selection; and the basis for the contract price. If competitive quotes/bids are not obtained, agencies must document the situation and justification for not doing so.

- The final claims made for each project are supported by amounts recorded in the accounting system.
- No costs are claimed for which there has been no cash outlay. FEMA may require proof not only of hours worked, but that employees have actually been paid what the applicant claims they have been paid.
- Claims for expenditures are reviewed for reasonableness and to ensure they were authorized under the scope of work and directly benefit the FEMA project.
- Regular salaries of permanent employees used by the applicant for debris removal and emergency service projects are not chargeable to FEMA. (This rule also applies to the regular salaries of seasonal employees, when covered by existing budgets and used for disaster work during the “normal season” of their employment.)
- Claims for overtime fringe benefits relate to overtime worked – not to benefits such as health insurance that are paid anyway. The overtime fringe benefit rate is usually significantly lower than the regular fringe benefit rate.

2. Training

Fiscal managers should consider the need to provide training to field supervisors on (1) maintaining time sheets and daily logs or other records to document force labor and equipment usage and (2) keeping disaster-related equipment, materials and labor costs separate from non-disaster work.

Detailed records that will be required include identity of the equipment, time used, purpose and the operator’s name; the operator must also be listed on the payroll timesheets covering the period the equipment was used. Field personnel may also need to document work performed *before* an event separately from work performed *during* and *after* an event.

Some of FEMA’s basic forms are listed in the table below and are available online at <http://www.fema.gov/government/grant/pa/forms.shtm>:

FF90-123	Force Account Labor Summary Record
FF90-124	Materials Summary Record
FF90-125	Rented Equipment Summary Record
FF90-127	Force Account Equipment Summary Record

3. Record Retention

FEMA requires applicants (state and local government agencies) to maintain records for a minimum of three (3) years from the date of the final Financial Status Report (FSR) or to follow their standard record retention policy requirements if that policy dictates a longer retention period. (The standard retention period for the state of Oregon is six (6) years.) If applicants are required to submit an FSR, the *beginning date for record retention* is the date of the final FSR. If an FSR is not required, the *beginning date for record retention* is the final certification of completion of the applicant's last project.

4. Audits

Public assistance grant recipients are required to comply with the provisions set forth under the Single Audit Act of 1984 (Public Law 98-502), as amended in 1996. The act requires grant recipients expending \$500,000 or more in federal funds in a fiscal year ending after December 31, 2003 to perform a single audit or program-specific audit in accordance with OMB Circular A-133, Audits for States, Local Governments, and Non-Profit Organizations. Grant recipients are also subject to additional audits by the Department of Homeland Security/Office of the Inspector General and state auditors for items not covered by the single audit.

The GFOA recommends that applicants request an audit from the reimbursing agency as soon as possible (e.g., request a separate audit of immediate response costs) to minimize the possibility of disallowance because additional requested documentation is no longer available.

CHAPTER FOUR: EMERGENCY PROCUREMENT

In the aftermath of Hurricane Katrina, the US Government Accountability Office identified a number of emergency response practices that all governmental agencies can adopt to better manage their disaster-related procurements. These practices include:

- a. Developing knowledge of contractor capabilities and prices by identifying available commodities and services and establishing vendor relationships before they are needed,
- b. Formally assigning and communicating disaster-related responsibilities, with joint training for government and contractor personnel, and
- c. Providing sufficient numbers of field-level contracting staff with the authority needed to meet mission requirements.

1. Best Procurement Practices

State and local government agencies can take action on a number of issues that will improve not only their emergency response, but will also reduce the risk of unauthorized or unnecessary purchases. These actions are listed below.

- a. **Coordinate with Your Facilities Division:** Before a disaster strikes, meet with your agency's Facilities Division to determine availability and location of stockpiles and equipment that could be used during an emergency. Ensure that adequate controls have been set in place to safeguard inventories of emergency supplies.
- b. **Identify Large Buildings for Evacuation Purposes:** Develop a list of government and non-government buildings capable of housing large numbers of people and evaluate the need to negotiate advance agreements. Be sure to maintain 24/7 contact information.
- c. **Consider Centralizing Emergency Procurement Activities:** Evaluate the need to centralize procurement activities during an emergency from a command and control standpoint.
- d. **Identify Critical Vendors:** Identify critical vendors and determine whether emergency operational needs can be satisfied through state price agreements. If not, is it possible to use other existing state and federal contracts? It may be necessary to negotiate new "as-needed" or "stand-by" contracts to establish pricing and other terms and conditions that will apply during an emergency situation.

When a regional disaster strikes, there is generally more work to be done than there are contractors to do the work. Pre-existing contracts can provide some assurance that your agency will be served first. In addition, pre-existing contracts help reduce the likelihood of getting into a bidding war and incurring costs that FEMA might consider "unreasonable."

- e. **Contract language:** Incorporate an “emergency disaster” clause into all contracts for goods and services that might be needed in the event of a disaster to ensure that those goods and services will be available on a timely basis at a reasonable price. Also, vendors should be required to supply the necessary level of detail in their billing to support reimbursement.
- f. **Identify Sole Source Purchases:** Ascertain and document in advance whether certain emergency items have unique features that make sole source purchasing justifiable.
- g. **Develop and Maintain Lists of Commodities/Buildings/Vendors/Contractors:** Establish lists of emergency items, the related price agreement, or other contract/agreement, or potential suppliers/vendors/contractors, including 24/7 contact information. Copy the lists to computer disks and flash drives and make hard copies that are distributed appropriately.
- h. **Consider Relationships with Other Agencies:** Consider whether your agency normally partners with other agencies, making it important to purchase compatible equipment.
- i. **Consider Partnerships with Private-Sector Companies:** Determine the need to partner with private-sector companies. For example, if a large area needs to be evacuated quickly, an arrangement with private bus company could help speed the process. An agreement with a private ambulance company would be very helpful during a mass casualty event.
- j. **Establish Relationships with National Suppliers:** Advance agreements with national suppliers, such as Grainger, Home Depot, Safeway, Wal-Mart, etc., that have established distribution systems and large inventories of critical supplies (water, cots, blankets, lumber, saws, gloves, etc.) should be considered. By pursuing these arrangements upfront, agencies gain the ability to predefine the pricing terms, response times and other critical protocols. To avoid over reliance on any one vendor, agencies should consider establishing multiple agreements.
- k. **Consider Partnerships with Nonprofits:** Understanding the capabilities of nonprofit organizations, such as the Salvation Army and Red Cross, is another important element of emergency planning. Can they provide cots and food for an entire region devastated by flooding? Putting plans into place in advance, allows nonprofits and the state agencies to set the thresholds or reimbursement terms.
- l. **Develop Forms for Requesting Quotes, Etc.:** A generic form for requesting quotes during an emergency should be developed and distributed to authorized personnel. A generic form for contracting for *services* during an emergency should also be developed. It is very important that records be maintained to document quotations, bids, proposals and contracts that occur during or after the immediate emergency.
- m. **Conduct Mock Scenarios:** Agencies should consider conducting mock scenarios in which authorized purchasing agents, including State of Oregon purchase cardholders (see SPOTS card discussion below), are faced with making purchasing decisions within a very short timeframe for items that are significantly different from those normally requested.

During an emergency, agency personnel will be expected to perform the following duties quickly and efficiently:

- Locate suppliers
 - Review contract terms and conditions
 - Conduct procurement actions
 - Track purchase orders, bills of lading or other receiving documents
 - Track delivery of goods or service
 - Track Invoices and payment information
 - Maintain contact information at the emergency location
- n. **Train Personnel in Contract Oversight:** Agencies must also determine how they will monitor contractors. To ensure that goods and services are delivered in accordance with the agreed upon schedule, cost, quality, and quantity provisions in the contract, it requires having sufficient numbers of trained and properly-deployed personnel to oversee contractor performance.

Deployment practices must provide for appropriate notification of responsibilities or the overlap of rotating contracting personnel, so that knowledge transfer and continuity of contract management operations are maintained. A knowledge gap among oversight personnel can leave the next contract administrator with no knowledge or documentation of who authorized the contractor to perform certain activities or why the activities are being performed.

2. FEMA Regulations

FEMA Regulations – Generally, FEMA requires contracts to be of reasonable cost, competitively bid and in compliance with federal, state and local procurement standards. Four methods of procurement are acceptable to FEMA and are described below in general terms.

- a. **Small Purchase Procedures:** Small purchase procurement is an informal method for securing services or supplies that do not cost more than \$100,000 by obtaining several price quotes from different sources.
- b. **Sealed Bids:** Sealed bid procurement is a formal method where bids are publicly advertised and solicited, and the contract is awarded to the bidder whose proposal is the lowest in price. This method is the preferred method for procuring construction contracts.
- c. **Competitive Proposals:** Competitive procurement is a method similar to sealed bid procurement in which contracts are awarded on the basis of contractor qualifications instead of solely on price. This method is often used for procuring architectural or engineering professional services.

- d. **Noncompetitive Proposals:** Noncompetitive procurement is a method whereby a proposal is received from only one source. Noncompetitive proposals should be used *only* when the award of a contract is not feasible under small purchase procedures, sealed bids, or competitive proposals, and one of the following circumstances applies:
- The item is available only from a single source;
 - There is an emergency requirement that will not permit a delay for competition;
 - FEMA authorizes noncompetitive proposals; or
 - Solicitation from a number of sources has been attempted, and competition is determined to be inadequate.

FEMA reimburses three types of contracts:

- a. **Lump sum contracts** for work within a prescribed boundary with clearly defined scope and a total price;
- b. **Unit price contracts** for work done on an item-by-item basis with cost determined per unit; and
- c. **Cost plus fixed fee contracts**, which are either lump sum or unit price contracts with a fixed contractor fee added into the price.

Applicants should avoid using “time and materials” contracts. Specific guidance on FEMA contract rules can be found in FEMA regulations at 44 CFR Part 13 – *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*.

3. Oregon Laws and Rules

In addition to the Oregon statutes and administrative rules that apply specifically to your agency, a financial manager should be familiar with the following emergency provisions.

Oregon Revised Statute (ORS) 279A.010(1)(f) defines an “emergency” as circumstances that:

- a. Could not have been reasonably foreseen;
- b. Create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety; and
- c. Require prompt execution of a contract to remedy the condition.

ORS 279B.080 states that the head of a contracting agency, or a person designated through the delegation of authority provided for in ORS 279A.075, may make or authorize others to make emergency procurements of goods or services in an emergency. The contracting agency shall document the nature of the emergency and describe the method used for the selection of the particular contractor. For an emergency procurement of construction services that are not public improvements, the contracting agency shall ensure competition for a contract for the emergency work that is reasonable and appropriate under the

emergency circumstances. In conducting the procurement, the contracting agency shall set a solicitation time period that the contracting agency determines to be reasonable under the emergency circumstances and may issue written or oral requests for offers or make direct appointments without competition in cases of extreme necessity.

OAR 137-047-0280 directs agencies to conduct emergency procurements with competition that is reasonable and practicable under the circumstances.

OAR 137-045-0070 sets forth the conditions under which an emergency public contract shall be exempt from the legal sufficiency approval requirement.

OAR 137-049-0150 describes the process by which a contracting agency may declare the need for the prompt execution of a contract for emergency construction or repairs. Competition for such contracts may include written requests for offers, oral requests for offers or direct appointments without competition in cases of extreme necessity, in whatever solicitation time periods the contracting agency considers reasonable in responding to the emergency.

In addition, OAR 137-049-0150 requires that the scope of the emergency contract must be limited to work that is necessary and appropriate to remedy the conditions creating the emergency as described in the declaration. However, the emergency contract may be modified by change orders or amendments as is necessary and appropriate to address the emergency circumstances.

ORS 279C.380(4) and OAR 137-149-0150(5) deal with waiving the requirement of furnishing performance and payments bonds under emergency circumstances.

CHAPTER FIVE: USING SPOTS CARDS DURING AN EMERGENCY

Oregon Accounting Manual (OAM) Policy 55.30.00 – SPOTS Card Program sets forth the minimum standards for processing purchase transactions using the State of Oregon's Small Purchase Order Transaction System (SPOTS) card. The SPOTS card program was implemented to eliminate costly paperwork and to expedite the process of making purchases, thus, saving the State time and money. The SPOTS card, which is an important tool under normal circumstances, may be even more valuable during an emergency.

1. SPOTS Card Application

To request a SPOTS card, the potential cardholder must complete the Purchase Card Application and Agreement form (OAM 75.55.02.FO). As long as the credit limit is \$7,500 or less and the request has been signed by the agency's Approving Officer, the request may be processed directly by the agency's SPOTS Card Coordinator using the US Bank's (Bank) web-based system. The new SPOTS card will be issued in the name of the employee and the state agency responsible for the card's usage, based on the information contained in the signed Purchase Card Account Information Record (PCAIR) found on page 4 of the Purchase Card Application and Agreement.

2. Credit Limits

The default credit limit for each credit card issued under the SPOTS card program is \$2,500 per billing cycle. The agency Approving Officer may authorize increases (up to \$7,500) or decreases in the credit limit. The credit limit decision should be based on anticipated need and frequency of use and the cardholder's employment classification and job responsibilities.

Requests to increase the credit limit above \$7,500 require the additional approval of the State Controller's Division (SCD), Statewide Financial Management Services (SFMS) Section. Agencies must submit a new PCAIR form signed by the Approving Officer and attach a written explanation that describes the reason for the increase and the controls and safeguards in place to ensure proper receipting of physical assets and appropriate use and storage of the card.

3. Expedited Procedures During an Emergency

In an emergency situation, the request for a SPOTS cards can be expedited. Cards can be issued and made available to new users within 24 to 48 hours after the Bank receives the request and is notified it is for emergency purposes. If the request is submitted early in the morning, the new SPOTS card will be delivered the next day; if the request is submitted after the bank's normal delivery/pick-up time, the card will be delivered within 2 days. The delivery location can also be pre-determined at the time of request. (*NOTE: The Bank is not available to process emergency requests evenings, weekends or holidays.*)

In an emergency, requests to increase the credit limit of an existing cardholder can also be expedited. Credit limit increases up to \$50,000 become effective within 2-4 hours of the "emergency" request. Requests to increase the credit limit over \$50,000 may take up to 24

hours. In either case, any request to increase a cardholder's monthly credit limit above \$7,500 requires the approval of SFMS. Agencies must submit a new PCAIR form, signed by the Approving Officer, along with a written explanation that (1) states the request to increase the spending limit is due to an emergency situation; (2) describes the controls and safeguards in place to ensure proper receipting/tracking of emergency purchases; and (3) discusses the controls in place to ensure the proper use and storage of the SPOTS card. The request forms may be faxed to SFMS. (NOTE: *The Bank cannot process emergency credit limit increases evenings, weekends or holidays.*)

4. Selection and Training of Emergency SPOTS Cardholders

SPOTS cards are non-transferable, meaning that a SPOTS card cannot be used by anyone other than the named cardholder to make a purchase – not even in an emergency. For this reason, agencies should carefully consider whether key personnel expected to be involved in disaster recovery activities should also be SPOTS cardholders. Agencies must also decide whether to request “emergency” SPOT cards in advance or wait until an emergency actually occurs. If the decision is to delay, agencies must keep in mind that communication networks, etc. could be adversely affected during an emergency which, in turn, could impact the effectiveness of the expedited procedures described above.

Some of the issues that must be resolved at the agency level include the following:

- a. Specifically, to whom should emergency SPOTS cards be issued? Should SPOTS cards be issued to administrators, deputies, field supervisors and other emergency responders? Or, because of their familiarity with procurement laws, administrative rules, and statewide policies, should emergency SPOTS cards be issued to key purchasing staff only?

If an agency decides to issue emergency SPOTS cards to purchasing staff only, the agency should also specify the minimum qualifications. For example, management might decide that qualifying purchasing agents must have:

- A minimum of two years experience at the level of a *Procurement & Contracts Specialist 2* or higher;
 - A current *Oregon Procurement Basic Certification*; and
 - A solid foundation in using statewide price agreements and the ORPIN system.
- b. What is the proper emergency spending limit for each of the potential emergency cardholders? The assumption is that it will be more than \$7,500, but how much more?
 - c. Have existing SPOTS card policies and procedures that govern day-to-day processes been updated to include emergency operations, ensuring that:
 - Emergency cardholders receive basic and refresher training on the proper use of a SPOTS card, including transaction documentation requirements;
 - Emergency cardholders understand they must secure and control the cards at all times; and
 - Emergency SPOTS card activity is consistently monitored on a week to week basis, not just during an emergency.

5. Documentation Requirements

Emergency SPOTS card transactions must comply with the same documentation requirements applicable to all purchase transactions. All expenditures must be supported by copies of appropriate source documents, such as vendor invoices or receipts (merchant credit card receipts, alone, are not sufficient) and receiving records, and they must be approved by individuals who have the appropriate level of signature authority. In addition, the use of a SPOTS card does not eliminate the requirements to (1) issue a purchase order for all purchases over \$5,000 that are not part of a price agreement and (2) obtain competitive bids, particularly for purchases that are part of a FEMA project.

Agencies are reminded that all expenditure claims related to FEMA projects must be reasonable and necessary, authorized within the project's scope of work and directly benefit the project. Financial managers should work with OEM to ensure their agency's SPOTS card reporting mechanisms generate the data required for reimbursement under federal and state disaster recovery programs.

6. Cardholder Information

Agencies should also make sure that a complete record of their cardholder information is stored at a secure secondary location.

7. Tracking Mechanisms

Agencies may find it useful to develop their own internal system to track SPOTS card purchases during an emergency to monitor spending, to share data among multiple users, and to facilitate post-emergency audits and analysis. Special recordkeeping procedures and advance training would be needed to instruct agency personnel how to log, track and report emergency purchase information (cardholder name, exact vendor name, exact dollar amount and description of goods or services purchased) to a central authority. For agencies currently using the Bank's Access online program to track and analyze SPOTS card activity, a new feature will soon be available that agencies can use to customize their reports.

One major benefit of using SPOTS cards to make emergency procurements is that the process ensures creation of a record of the purchases as evidenced by the monthly billing statement and the Bank's Access online program. Although neither of these resources constitutes sufficient documentation/authorization for payment purposes, together, they provide a starting point and reference numbers for follow-up and investigation when receipts go missing.

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