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Federal Emergency Management Agency (FEMA) and Other Disaster Recovery Funds Received

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Executive Summary

This confirms the Commonwealth's earlier stated policies that apply to the receipt of Federal Emergency Management Agency (FEMA) assistance and other disaster recovery funds received by the Commonwealth. This policy supersedes the memo to Chief Fiscal Officers issued by the Comptroller and the Budget Director on April 18th, 2005. Generally, the Massachusetts Emergency Management Agency, Mosaic Department Code CDA, and also known as MEMA, is the key Department in the request, receipt and processing of FEMA funds.

Federal disaster funds awarded to the Commonwealth for natural disasters represent reimbursement to the Commonwealth for some percentage of costs actually incurred during the disaster period as declared by the federal government. As such, disaster funds represent reimbursement for actual costs expended from appropriated funds. Unless otherwise authorized, reimbursement received shall be deposited into the Commonwealth's General Fund. This policy clarifies for state agencies the treatment of all disaster relief funds received from the federal government.

Considerations

The Constitution of the Commonwealth and various General and Special Laws, some of which may be specific to a Department's acceptance of revenue, determine the Department's ability to expend that revenue. M.G.L. c. 29 § 6B governs the use of Federal Grant Funds. Subsection (j)(4) of the law exempts Departments from approval of the Joint Committee on Veterans and Federal Affairs of new federal funds, if the federal funds made available to the state are for costs and damages resulting from natural disasters, civil disobedience, or other occurrences of sufficient severity to have occasioned the declaration by the Governor of a state of emergency. In addition, federal reimbursement will be available only when a federal declaration of a disaster follows the governor's declaration. Departments that expend non-federal funds for eligible costs, as defined in the Stafford Act and may qualify for reimbursement to the Commonwealth through Public Assistance Grants or the competitive Hazard Mitigation Grants must complete the application process as defined by FEMA in order to qualify for reimbursement.

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards should be reviewed by departments receiving federal disaster assistance, either directly or indirectly, to

prepare for the Commonwealth's single audit. The supplement is available at 2 CFR Part 200 specific reference to the catalog for domestic assistance (CFDA) number 97.036 Public Assistance Grants.

Policy

Accounting Policy

This policy clarifies for state Departments the treatment for all disaster relief funds received. In a federally declared natural disaster or a state of emergency (SOE), the Commonwealth's policy on receipt of assistance from the federal government is to record receipt of revenues as unrestricted federal revenues in the General Fund, and thus not available for expenditure unless appropriated by the General Court. A specific revenue source code will be used by CDA to account for cash inflows. As such, these funds represent reimbursement for eligible costs expended from appropriated funds and not a federal grant to be drawn for future expenses.

Procedure

All requests for SOE financial assistance must be submitted to CDA in accordance with CDA procedures and in consultation with the Secretary for Administration and Finance (A&F).

All Departments believing they have or will have incurred costs resulting from the declared disaster should attend an Applicant Briefing, hosted by CDA once the federal government has issued its declaration of disaster and its intent to make funds available to reimburse the Commonwealth for some portion of eligible costs.

Records Management

A department is responsible for retaining and archiving contract records in accordance with the disposal schedules issued by the Secretary of State Records Conservation Board. Please see the CTR Fiscal Records Management Policy. In accordance with 815 CMR 10.00, the department is the record keeper of the official record copy of the contract documents and the contract/procurement file. The statewide enterprise accounting and financial reporting system ("the system"; "Mosaic") is the official record of the encumbrance and payment documents and will supersede any paper copies of the same information. The contract/procurement file must contain, or refer to the location of, all documentation related to a procurement and resulting contract(s).

Whenever federal funds are involved, including disaster fund reimbursements, Departments are required to maintain sufficient supporting documents and records of expenditures in accordance with federal grant and federal fund receipt requirements. Departments must be able to properly account for the expenditure of state funds in accordance with the applicable state and federal procurement, contract and accounting requirements. Emergency situations do not waive all requirements and Departments are required to following existing policies and procedures for making emergency related obligations and expenditures, especially expenditures that use federal funds or will be submitted for federal reimbursement.

Information Sources

Related Policies

- CTR Federal Grant Accounting and Reporting Policy
- CTR Key State Finance Law Compliance Appointments and Responsibilities Policy
- CTR Department Head Signature Authorization Policy
- CTR Fiscal Records Management Policy
- Stafford Act
- Operational Services Division

OSD Procurement Information Center (PIC)

Legal Authority

- M.G.L. c. 7A (Office of the Comptroller)
- M.G.L. c. 29 (State Finance Law)
- Massachusetts Constitution: Article LXIII. Section 1. "*Collection of Revenue. - All money received on account of the commonwealth from any source whatsoever shall be paid into the treasury thereof."*
- M.G.L. c. 30 § 27: "*Except as otherwise expressly provided, all fees or other money received on account of the commonwealth shall be paid daily into the treasury thereof*."
    - This means that the total revenues collected by a Department must be deposited and accounted for in the statewide enterprise accounting sand financial reporting system).
    - If a contractor assists a Department in the collection of revenue (e.g., debt collection agency, revenue maximization contractor, or a cost avoidance contractor) the total of all revenues collected must first be deposited and accounted for in the state accounting system prior to payment being made to the contractor. (i.e., no "netting" of revenues and fees).
- M.G.L. c. 10 § 17B: Unless otherwise provided by law, all moneys received by a department shall be deposited with the state treasurer (subject to the approval of the Governor) and expended, subject to appropriation.
    - This means that a Department can **receive** funds from any source (gift, grant or bequest) but **must have specific legislative authority** (language) to expend the funds (subject to appropriation).
    - Examples of specific legislative authority (language) authorizing receipt and expenditure of funds include:
        - "…and may expend such funds without further appropriation…", or
        - "…and may expend such funds for the purposes of this section…"
- If a General or Special law is silent as to the ability of the Department to expend the funds, or states that expenditures are "subject to appropriation", the Department may not obligate or expend the funds received until the Legislature authorizes (appropriates) the expenditure of fund through a General Appropriations Act, Supplementary Appropriations Act, or other Act.
- Massachusetts Executive Orders (Level III – Executive Only);
- Comptroller regulations (815 CMR 2.00 - 10.00)
- M.G.L. c. 29 § 66 (State Finance Law Violations)
- COMMBUYS

Links

- Uniform Guidance

Contacts

- CTR Solution Desk
- MAComptroller.org