

National Oil Spill Contingency Plan

Chapter 15 – Financial Protocols



Contents

- Cost Tracking and Accounting..... 3
- Financial Delegation and Procedures..... 3
 - Delegated authorisation of expenditure 3
 - Oil Spill Duty Officer (OSDO) 3
 - National On-Scene Commander (NOSC) 3
 - Other Maritime NZ staff..... 3
 - Establishment of bank arrangements 3
 - Procedures for tracking costs 3
 - Financial system 4
 - Financial reports 5
 - Petty cash 5
 - Contracts..... 5
 - Additional response personnel..... 5
 - Claims under the Fund Convention 6
 - Availability of funds where response cost exceeds Oil Pollution Fund limits 7
 - Availability of funds from Oil Pollution Fund as an interim measure..... 7
- Cost tracking within WebEOC 7
 - Financial recording..... 7

Figures

- Figure 1** Procedure for ordering and tracking costs. 4

Cost Tracking and Accounting

Cost Tracking must be rigorously applied throughout the response. High priority must be given to the gathering of sufficient and accurate information to enable recovery of costs from the spiller. In many instances, the spiller will be known. Therefore, they (via their insurers or P&I Club) will agree to meet costs (although the exact magnitude of those costs may be debated; hence the need for a quantity surveyor or P&I Club rep in the ICC). In other instances, either the spiller will not be known or they may not agree to pay costs. In these latter instances, costs can be recovered in two ways, via a successful prosecution or via a civil action in Court.

Financial Delegation and Procedures

Delegated authorisation of expenditure

Oil Spill Duty Officer (OSDO)

The OSDO has the delegated authority to authorise expenditure by a regional council for incident investigation up to \$5,000.

The OSDO has the delegated authority to commit expenditure of up to \$150,000 in a response operation.

National On-Scene Commander (NOSC)

The NOSC, upon appointment, has approval for financial expenditure up to \$500,000, inclusive of any monies already expended by the OSDO and other Maritime NZ personnel noted below.

Approval for expenditure above this limit is required from the Director. If all monies in the Fund are expended and further are required the Director will in turn be responsible for obtaining approval from the Minister of Finance to expend additional moneys pursuant to the emergency provisions of s13 of the Public Finance Act 1989. This can be done via DESC (see Annex 5 of the National Plan).

Managerial positions under the NOSC have been delegated by the Director authority to purchase items not exceeding a specific value each. The authorisation applies to the position and not to the person. The manager's signature and position must be on every order authorized.

The Planning Manager has the delegated authority to commit expenditure on items costing up to \$5,000 each. The Operations Manager and Admin and Logistics Manager have the authority to spend up to \$50,000 dollars on one item. All these managers may, in writing, delegate authorisation of lesser amounts of expenditure to personnel in their team.

Other Maritime NZ staff

In the event of an oil pollution incident requiring Maritime NZ, the following delegation for incident investigation expenditure of up to \$5,000 may be exercised by those persons holding the following named positions:

- General Manager, Marine Pollution Response Services
- Deputy Director, Safety and Response Services
- Oil Pollution Equipment Technician, National Oil Spill Service Centre
- Oil Spill Duty Officer
- Planning & Training Coordinator
- Operations Coordinator

All costs incurred shall be separately accounted for.

Establishment of bank arrangements

The Administration Section of the MIRT can access the monies available in the Oil Pollution Fund.

Procedures for tracking costs

The Incident Command Centre and the MIRT will have Finance Sections that are responsible for tracking all incident costs at each Centre. In addition, **the Finance Section at the MIRT will be responsible for keeping the running record of total costs of the incident.**

All commitments of expenditure will be made using the order forms dedicated to oil spill response. Each form must be signed by authorised personnel. The order forms will be forwarded to the Administration Section of each centre for further processing once the order has been actioned.

Items may be ordered via either the Incident Command Centre or the MIRT as detailed below in Figure 1.

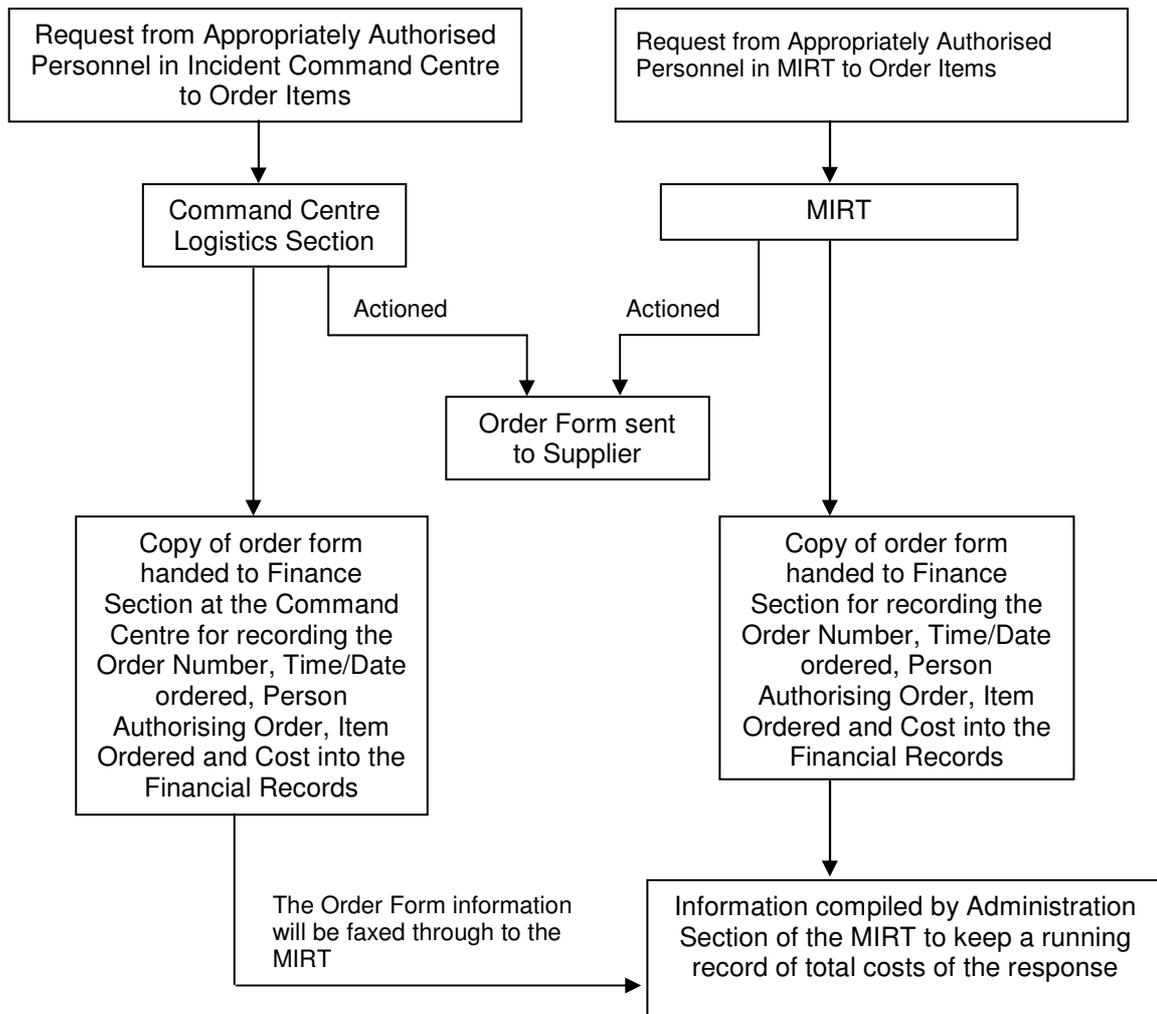


Figure 1 Procedure for ordering and tracking costs.

If requests for ordering come directly to the MIRT from the ICC (other than from the ICC Logistic Section), the MIRT should ring the ICC Logistic Section to ensure that there is no possibility of double ordering.

Financial system

A system for the recording and processing of costs will be developed by the Finance Section of Maritime NZ for use during an oil spill response. An appropriate tool for recording costs will be used.

Financial reports

The Finance Section at the MIRT will constantly update the NOSC on the total cost of the incident to date. The required frequency of these reports will be determined by the NOSC (i.e. hourly, two hourly, etc.) but the Finance Section will keep a running total so an estimate of total expenditure could be provided at any stage in the incident. This information will also be provided to the spiller, if known.

The cumulative cost, and costs of individual components, of the response would be available.

The NOSC will notify the Director of Maritime NZ when the cost of the response is approaching the \$500,000 limit of the NOSC's authorisation for expenditure.

Petty cash

Access to petty cash may not be immediately available therefore the NOSC should be prepared to fund minor expenses in the interim. Any personal funds used for this purpose will be reimbursed by Maritime NZ after an expense claim has been presented. As a priority however, the NOSC's Assistant should have pre-arranged access to petty cash.

Both the Incident Command Centre and the MIRT will have a petty cash allocation with which purchases under a certain value (e.g. \$100) can be made. The petty cash will function as a float and will be topped up as necessary by the Administration Section of each Centre. The likely value of the petty cash held at each Centre will be \$1,000.

Any purchases made with the petty cash must be authorised using a petty cash reimbursement form. The petty cash reimbursement form will be passed to the Finance Section and the finance Section will provide the necessary cash. All receipts for items purchased using petty cash must be passed to the Finance Section of the relevant Centre.

Contracts

In most cases where a contract for services is required the third party providing the service will have pre-established contracts or memoranda of understanding that will be used to finalise the agreement.

In the event that a contract for delivery of services needs to be written between Maritime NZ and an independent third party during an oil spill response, and the third party does not have an established contract format, a contract will be drafted by Maritime NZ.

The contract will be approved by the legal adviser in the Incident Support Section to insure that it meets all legal requirements.

Additional response personnel

Temping agencies may be used to engage any casual personnel. Suitable applicants would be channelled through such agencies, which would provide the contract and payroll facilities required. Maritime NZ would be invoiced for services provided and payment would be made in the usual manner.

If the above facility is not available, Maritime NZ can draft contracts as required.

Claims under the Fund Convention

Under the Civil Liability Convention, claims for compensation for oil pollution damage may be brought against the owner of the ship which caused the damage (or their insurer). In certain circumstances claims may be brought against the IOPC Fund if the shipowners liability is exceeded or broken.

N.B.

- Only persistent oil is covered.
- The spill must be from a sea-going vessel carrying oil as cargo (normally a laden tanker).
- Bunker fuel from laden tankers is covered.
- Tankers are not covered during ballast voyages.
- Bunker fuel from unladen tankers or other vessels is generally covered (this is generally covered unless it is a maiden voyage or it is proven that there are no residues of cargo carried in bulk).

The onus is on the claimant to prove that oil pollution damage came from a 'ship' as defined by the Civil Liability Convention.

Pollution damage has been taken to mean contamination from oil. Personal injury is included provided it resulted from contamination. However, the Fund Executive Committee has the final discretion.

The international Oil Pollution Funds publishes a Claims Manual to assist claimants. The Claims Manual is reviewed regularly by the Assembly of the Funds and the current edition is the April edition. Pages 9 to 11 of the Funds Claims Manual set out the conditions in which the IOPC Fund will pay for oil pollution damage as defined above. Claims should be supported with relevant material such as invoices and photos. Sections II and III of the manual sets out the information that should be contained within a claim and the breakdown of the claim.

The general criteria for assessing claims is outlined on page 11 of the manual. However, the assessment of claims is ultimately up to the Executive Committee of the IOPC Fund. The general criteria are:

- any expense/loss must actually have been incurred;
- any expense must relate to measures which are deemed reasonable and justifiable;
- a claimant's expense/loss or damage is admissible only if and to the extent that it can be considered as caused by contamination;
- there must be a reasonably close link of causation between the expense/loss or damage covered by the claim and the contamination caused by the spill;
- a claimant is entitled to compensation only if he has suffered a quantifiable economic loss; and
- a claimant has to prove the amount of his loss or damage by producing appropriate documents or other evidence.

If claims are received from only a couple of major players then the claims may be settled from London. However, if there are a number of small claims it is likely that the Fund (and P&I Club) will establish a local claims office.

The Fund will compensate for reasonable actions only, taking into account the amount of information that was known at the time.

The IOPC Fund covers preventative measures including those taken to prevent an oil spill if no oil escapes, provided that there was a grave or imminent threat of pollution damage.

The Fund will accept a proportion of fixed costs provided that the costs correspond closely to the clean-up period and do not include remote overhead charges. The Fund will also accept claims for additional costs that would not have been incurred unless the incident had taken place.

Claims for environmental impact are accepted only if the claimant has sustained an economic loss which can be quantified in monetary terms.

For further details, refer to the latest IOPCFund Claims Manual and/or the IMO publication (1998) "Administrative Aspects of Oil Pollution Response", copies of which are held at both the ICC and ISC. Refer any un-resolved queries to the ISC Legal Advisor.

(Note: Australia is promoting a "Bunkers Instrument" to extend the cover provided by the Fund.)

Availability of funds where response cost exceeds Oil Pollution Fund limits

Where response costs are likely to exceed the amount of money available in the Oil Pollution Fund, additional funds may be sought either via the Domestic and External Security Committee (refer Annex 5 of the National Plan) or via the Public Finance Act (refer letter from Treasury overleaf).

Availability of funds from Oil Pollution Fund as an interim measure

Where invoices for response costs are required to be paid during a response operation and before “all reasonable attempts” have been made to recover costs from the spiller the Oil Pollution Fund is able to be accessed for such funds (refer letter from Secretary for Transport overleaf).

Cost tracking within WebEOC

Financial recording

Personnel and Resource deployments are automatically linked to the financial board within WebEOC, as soon as they have been deployed. However rates and timesheets need to be completed for Personnel and Resources. This is ideally done by each staff member who is assigned to the incident, and the team responsible for deploying resources will keep the Resources timesheets up to date. If records are not being updated it is the Finance Teams responsibility to follow up.

Supplementary Expenses (anything other than time or resources) is to be entered into the Supplementary Expenses board menu, either by the person who has created the cost, or the Admin/Logistics Team will gather invoices/order books and forward to the Finance team to input. Copies of the order or invoice can be scanned and saved into WebEOC should there be the need.

Cost tracking information can be found on the Financial Summary Board. This displays running totals for Deployments, Personnel, Supplementary expenses, or the overall total of costs to date.