

# **TSCC Frequently Asked Questions**

## **Unappropriated Fund Balances**

### **When Can an Unappropriated Fund Balance Be Accessed?**

Generally, expenditures cannot be made from the unappropriated ending fund balance in the year or budget period in which it is budgeted. This balance is primarily intended to provide working capital or a cash balance to finance activities between the start of the ensuing fiscal year (July 1) and the time when sufficient new revenues become available.

However, Oregon Budget Law provides an explicit exception for public emergencies (ORS 294.481).

### **Under What Authority Can Unappropriated Fund Balance Be Accessed?**

The primary authority for accessing these funds in an emergency is ORS 294.481, along with related administrative rule OAR 150-294-0440.

### **What Constitutes a Public Emergency?**

An "emergency situation" as referenced in ORS 294.481 is specifically defined as:

- Involuntary conversion or destruction of property belonging to a municipal corporation (e.g., theft, vandalism, accident).
- Civil disturbance.
- Natural disaster.
- Any public calamity.

In these specific emergency situations, the unappropriated ending fund balance can be accessed. Local Budget Law does not provide further definition of what qualifies as an emergency situation, and does not require a separate resolution declaring an emergency in order to take action under ORS 294.481. The governing body should be prepared to defend their interpretation of what constitutes an emergency if it is challenged. ORS 401.025(1) provides a further list of emergency that may be helpful. Municipal corporations are advised to consult with their legal counsel if a further definition of "emergency situation" is needed.

## **Is Appropriation Required Prior to Expenditure?**

Generally yes, although this depends on the situation and nature of the emergency. If the governing body is able to meet, then it should appropriate funds and make any budgetary changes necessary prior to expenditure of funds. However, if the governing body is not able to meet due to an emergency situation, then the executive officer may, by written order, authorize the immediate expenditure of funds. In such a situation any required budgetary changes can be made at a later date when the governing body is able to convene.

## **What are the Necessary Steps Involved in Accessing and Expending Funds?**

There are two options for official action, depending on the circumstances:

- A. **Governing Body Action:** The municipal corporations governing body (e.g., Board of Commissioners) is generally required to take official action to authorize the expenditure and document the emergency and the use of funds. This action may involve adopting an ordinance or resolution to make appropriations for estimated expenditures out of any source of available funds, including unappropriated fund balances. This can be done in the same manner as provided in ORS 294.463 (Transfers of appropriations within fund or between funds), or by supplemental budget as provided in ORS 294.471 or 294.473 depending upon the budgetary impact. *This appropriation should occur prior to expenditure if at all possible.*
- B. **Chief Executive Officer Action (If Governing Body Meeting is Not Practical Due to Emergency Situation):** If a meeting of the governing body is not practical in an emergency situation, the chief executive officer of the municipal corporation may, by written order, authorize the immediate expenditure of funds from any available source. *This authority is specifically for responding to a threat to public health or safety. Once the governing body is able to meet again, they should proceed with the normal required process for appropriating funds and making budgetary changes.*

## Sources

- [ORS 294.481](#) - *Authorization to receive grants or borrow or expend moneys to respond to public emergency*
- [OAR 150-294-0440](#) - *Unappropriated Ending Fund Balance*
- [ORS 294.471](#) - *Supplemental budget in certain cases; no increase in property taxes permitted*
- [ORS 294.473](#) - *Procedure when supplemental budget changes estimated expenditures by more than 10 percent*
- [ORS 401.025\(1\)](#) – *Emergency Management and Services Definitions*
- Department of Revenue Oregon Local Budget Manual (p.27-28)