Clarification on Allowable Time Limits

For Northern Territory Government Agencies

Emergency Management Australia (EMA) has provided clarification on the timeline for expenditure eligible for partial reimbursement under the Natural Disaster Relief and Recovery Arrangements (NDRRA).

For expenditure relating to a declared natural disaster to be eligible under NDRRA, all eligible expenditure it must be incurred within the Allowable Time Limit (ATL). The ATL is 24 months after the end of the financial year in which the relevant disaster event occurred.

For example, the ATL for all eligible expenditure related to the Top End Monsoonal Trough that occurred in January and February 2014, during the 2013-14 financial year, was 30 June 2016. This ATL was 24 months after the end of the 2013-14 financial year in which the event occurred. Therefore, expenditure incurred after the ATL of 30 June 2016 is ineligible to be claimed.

Requests to extend the ATL beyond 30 June in the year where the ATL expires are only available for repairs or restoration to essential public assets (EPA).

Consideration to extend the ATL will only be given where special circumstances preventing the restoration works within the ATL can be demonstrated. Under NDRRA guidelines, special circumstances are factors that may have been unforeseeable, unusual, unique or beyond the control of the state or the local government, despite addressing all potential risks through adequate project and risk management plans.

Factors not considered to be special circumstances are those within the control of the state or local government. For example, ongoing discussions regarding internal funding arrangements that cause delays in project completion are viewed as poor project planning by the state or local government and, therefore, not considered as special circumstances requiring an extension to the ATL. Rain during the wet season is not considered unforeseeable, unusual or unique, but viewed as a potential risk that should have been addressed through adequate project and risk management plans.

Further examples of what does, and does not, constitute special circumstances are outlined in the document Attachment D: Request for Extension to the Allowable Time Limit Form, which contains further information on the timelines throughout the ATL process. This form must be submitted to the Department of Treasury and Finance (Treasury) to assess the application and lodge it with EMA.

If special circumstances can be demonstrated in relation to an EPA project, repair works must have started and eligible expenditure must have been incurred within the ATL. Eligible expenditure, as part of any contractual agreement for the restoration of an EPA within the ATL, would be considered as payments made for physical repairs or construction works, which have already commenced within the ATL. Merely undertaking initial estimates and scoping of projects in preparation to commence works is not viewed by EMA as the date of eligible expenditure commencing, under the ATL eligibility criteria.

Depending on any contractual obligations in place, agencies may complete project works outside the ATL if prior agreement has been reached with EMA. If an extension to the ATL has been lodged but not yet granted within the ATL, projects works are to continue. However, the associated expenditure beyond the ATL would not be considered eligible for partial reimbursement under the NDRRA until an extension to the ATL has been granted.

Therefore, if repairs to an EPA are at risk of not being completed within the ATL, agencies must contact Treasury once they have identified special circumstances that would result in delays completing the project within the ATL. This process will assist agencies to determine whether special circumstances exist before completing the ‘*Attachment* D: Request for Extension to the Allowable Time Limit Form’, which is required to be submitted to EMA through Treasury 7 months prior to the expiration of the ATL.

Under EMA guidelines, in line with the Federal budget cycle, requests for extensions to the ATL are assessed by EMA on two deadlines, 30 June and 30 November each year, and generally take three months to process. These deadlines are non-negotiable. Extension requests received after the ATL has expired will not be considered under any circumstances.

For Local Governments, Regional Councils and Shires

For the purposes of recording local government expenditure and determining whether the act of paying councils or shires grants is viewed by EMA as being eligible expenditure that can be claimed, this is not the case. Amounts which have been transferred from a State to a department, or other agency of the state, for possible expenditure on an eligible measure, but have not yet been spent by that department or agency, are specifically identified in the 2017 determination as not being eligible state expenditure and cannot be claimed.

For the purposes of NDRRA, agencies are to incur a liability at the time the local government authority undertakes an eligible measure, and only the amount of expenditure from that grant, which has actually been spent, is eligible to be claimed. Expenditure on eligible measures must be recorded against the year in which the eligible expenditure is actually incurred by agencies or relevant bodies, not the year in which agencies or local governments are provided with a grant or reimbursed.

For example, in the 2014-15 financial year, a $5.5 million grant relating to the Central Australia Flooding in January 2015 was paid to the Central Desert Regional Council and claimed as actual expenditure by the Department of Local Government and Community Services. This was identified in PricewaterhouseCoopers’ audit sample, which found that, of the $5.5 million grant claimed as actual expenditure in the 2014-15 financial year, only $15 547 had actually been spent. As a consequence, the unspent expenditure was removed from the claim and the estimated Commonwealth reimbursement to the Territory was significantly reduced.

On the question of whether the act of paying councils grants from the Department of Housing and Community Development is viewed by EMA as being the date that expenses are incurred, and so is therefore the start date of repairs to the EPA, this is not the case. Eligible expenditure would be considered as physical repairs or construction works commencing, as part of any contractual agreement for the restoration of an EPA within the ATL, as outlined above.

Therefore, if repairs to an EPA are at risk of not being completed within the ATL, the local regional council must first contact the Department of Housing and Community Development once it believes special circumstances have been identified. This would allow the Department of Housing and Community Development to assist in determining whether special circumstances exist, before being eligible to complete the required ‘Attachment D: Request for Extension to the Allowable Time Limit Form’.