

# **RULES**

## **Of the Oklahoma Cooperative Circuit Engineering Districts Board Concerning the Implementation of the Emergency and Transportation Revolving Fund Program Approved 6/28/2023**

### **I. Authority**

The Emergency and Transportation Revolving Fund Program (ETR) was created by HB 2381 (Title 69 § 687.3), passed by the Second Session of the 51<sup>st</sup> State Legislature in May 2008. As directed by legislation, the Oklahoma Cooperative Circuit Engineering Districts Board (OCCEDB) developed and adopted ETR rules and policies. The fund consists of a one-time transfer of 25 million dollars originating from the Oklahoma Department of Transportation's State Highway Construction and Maintenance Fund. Under the 2015 Oklahoma's Budget Bill, SB 2127, 10 million was removed to support the State's budget, leaving 15 million plus interest earned on the fund in the first two years of the fund's existence.

### **II. Purpose**

The purpose of the ETR is to provide to Oklahoma Counties' governments financial flexibility for funding transportation projects by allowing Counties to begin construction on projects for which money has been committed but not received. Thus, allowing projects to be completed sooner and at no additional cost to the County or the State. In 2015, SB 656 expanded the allowable use of the funds to the purchase of new compressed natural gas (CNG) vehicles or the conversion of existing gas-powered fleet vehicles to a compressed natural gas fueling system to take advantage of cost savings and environmental benefit of reducing liquid petroleum use.

### **III. Distribution of Funds**

The 15 million dollars plus \$400,015.02 in interest earned appropriated to the OCCEDB shall be divided among the eight Circuit Engineering Districts and non-CED member county. It will be segregated into separate subaccounts as follows:

	<u>District Funding Limit</u>	<u>Number of Counties</u>
CED 1	\$ 2,200,002	11
CED 2	\$ 1,400,001	7
CED 3	\$ 1,800,002	9
CED 4	\$ 1,600,002	8
CED 5	\$ 1,400,001	7
CED 6	\$ 1,800,002	9
CED 7	\$ 2,200,002	11
CED 8	\$ 2,800,003	14
<u>Non-CED member</u>	<u>\$ 200,000*</u>	<u>1</u>
Total	\$15,400,015	77

\*Each Non-CED member funding limit is \$200,000.

#### **IV. Qualifications for ETR Funding**

- A. Any County in “good standing” may apply to the ETR for transportation project funding or CNG vehicle funding to the extent that funds are available in its respective Circuit Engineering District (CED) or as a non-CED member county. The CED funding limit for CNG in each fiscal year shall be 50% of each CED’s or non-member ETR balance on July 1<sup>st</sup>.
- B. To be in “good standing”, a County must:
1. Construct all transportation projects with approved materials, standards or methods. Appropriate standards are the County Roads Design Guidelines, County Bridge Standards or other CED approved standards or methods.
  2. Complete all transportation projects and reimburse any and all ETR funds within one year of construction start date, unless an extension has been executed by the county, CED and OCCEDB. For all ETR loans the allowable term is up to a maximum of 5 years with annual extensions being executed by the county, CED and OCCEDB. **The Board of County Commissioners is required to submit its repayment plan on most current form ETR-RP to OCCEDB, stating the county’s purposed process (repay full amount, installments, time frame to repay, etc.) in repaying the ETR loan.** On a case-by-case basis, providing OCCEDB requested supporting documentation, OCCEDB may approve additional ETR loan repayment terms. If a County is a non-CED member, the extensions will be executed by the county and OCCEDB.
  3. For transportation projects, notify the respective CED and the OCCEDB of the construction start and completion date of each project and provide all supporting documentation as required by OCCEDB. If a County is a non-CED member, notify OCCEDB of the construction start and completion date of each project and provide all supporting documentation as required by OCCEDB. For CNG vehicle funding provide all documentation as required by OCCEDB.
  4. Provide its CED and the OCCEDB before and after digital pictures of the transportation project. If a County is a non-CED member, provide OCCEDB before and after digital pictures of the transportation project.
  5. Set up a special account under the T2 account to keep these ETR funds from co-mingling with other funds.
  6. Provide its CED and the OCCEDB invoices of purchased CNG vehicles or invoices of work converting vehicles to CNG. If a County is a non-CED member, provide OCCEDB invoices of purchased CNG vehicles or invoices of work converting vehicles to CNG.
  7. A county shall use the following in CNG conversions and/or CNG purchased vehicles. For new CNG vehicle purchases, the latest Oklahoma State contract (Ex. Solicitation Number SW035C) shall be utilized when appropriate vehicles are available. When a vehicle is required that is not available through the Oklahoma State contract, or when an existing vehicle will be converted to CNG, an Oklahoma State certified CNG technician shall be used to convert that vehicle.
- C. County Commissioners may only approve this contract agreement if they are proven to succeed themselves in office. During an election year Title 19 § 333(B) prohibits a county commissioner that is not seeking reelection or is defeated in any primary or general election or by any other manner, from approving new contracts.

## **V. Projects Eligible for Funding**

- A. Any type of transportation project that is on the County Highway System (Title 69 § 601).
- B. All project types under the “County Built” program pursuant to Title 69 § 662 utilizing County Bridge and Road Improvement (CBRI) funds.
- C. Projects reimbursed by the Federal Emergency Management Administration (FEMA), Surface Transportation Program (STP), tribal funds, County Improvements for Roads and Bridges (CIRB) Title 69 § 507.
- D. A combination of any of the funding sources stated above.
- E. Any county wanting to convert an existing gas-powered vehicle(s) to CNG or the purchase of new CNG vehicles as long as the same number of gas-powered vehicle(s) are disposed of to a non-governmental entity.

## **VI. Criteria and Priority for ETR Projects**

- A. Priority.
  - 1. Restoring routes for emergency services such as fire and ambulance.
  - 2. Restoring routes for school buses and mail carriers.
  - 3. Restoring other routes.
  - 4. Prohibit loss of potential matching funds such as tribal, FEMA, ER, REAP, Lake Access, Industrial Access, etc..
  - 5. Bridge projects based upon lowest existing load rating on Collector routes first then all other routes.
  - 6. Repairs/replacement to roads or bridges that are needed to maintain the viability and safety of the infrastructure.
  - 7. CNG vehicles considered a savings benefit in terms of costs of fuel, maintenance and operation to the county.
- B. Criteria. In order to receive a distribution from the ETR a transportation project or vehicle funding shall:
  - 1. Meet all appropriate standards and guidelines;
  - 2. Have State and/or Federal money committed to the transportation project;
  - 3. The County must have a satisfactory reimbursement history;
  - 4. Be a priority project as set forth in paragraph A. of this section;
  - 5. Meet all eligibility requirements set forth in Section V;
  - 6. The requesting County must comply with the Application Process in Section VII and, after approval, execute all necessary contracts or agreements with the OCCEDB;
  - 7. Satisfy and/or meet all federal, state, or local laws, regulations, and guidelines; and be the best use of ETR funds as determined by the OCCEDB.

Based on applications submitted to the OCCEDB pursuant to the Section VII, at each meeting to approve the funding of transportation projects or vehicles, the highest priority in a CED will receive funding first. If two or more counties in the same CED have a priority on the same level, all the priorities will be funded if there are sufficient funds. If there are insufficient funds, the priorities will be funded on a pro rata basis.

## **VII. Application Process**

- A. Any Board of County Commissioners may make application and contract to their CED for approval of the use of ETR funds for a transportation project or for the purpose of

converting/purchasing CNG vehicles. If a County is a non-CED member, they may make application and contract to OCCEDB for approval of the use of ETR funds for a transportation project or for the purpose of converting/purchasing CNG vehicles.

- B. Along with the application and contract the County shall submit to the CED and OCCEDB all documentation regarding the project including, but not limited to, a description, location, agreements, applications, resolutions, before and after construction pictures and other project information. If a County is a non-CED member, they shall submit the application and contract to OCCEDB along with all documentation regarding the project including, but not limited to, a description, location, agreements, applications, resolutions, before and after construction pictures and other project information. Counties that borrow funds for the purpose of purchasing CNG vehicles shall provide documentation that an amount of gas-powered vehicles equal to or greater than those purchased have been sold or otherwise disposed of to a non-governmental entity. This documentation will consist of the latest Oklahoma State Auditor's Form 397, Resolution for Disposing of Equipment, executed by the county disclosing the entity/person the vehicles were transferred to.
- C. Each CED shall review their County applications and contracts and approve those that meet the approved OCCEDB criteria and are within their funding limit. The CED funding limit for CNG in each fiscal year shall be 50% of CED's ETR balance on July 1<sup>st</sup>. The CED shall then submit to the OCCEDB a list of CED approved prioritized transportation projects and vehicle funding. All supporting documentation for each must be included.
- D. The OCCEDB shall review and have the final approval of all CED or non-CED member county approved transportation projects, CNG vehicle funding.
- E. A CED or non-CED member may request additional funding from another CED. If the other CED has funding available and agrees to the request, the CEDs or CED/county shall enter into an agreement, which shall describe the transportation project or vehicle funding, any additional funding limitations, repayment terms and any other conditions that might apply. Such agreement shall be executed/signed by the President or other executive Board member of each CED or a non-CED member board of county commissioners.
- F. The OCCEDB shall submit a claim and a certificate from the OCCEDB stating that all the transportation projects or vehicle funding listed meet the requirements of state law and the rules adopted by the OCCEDB to the Office of Management Enterprise Services, OMES, for payment.
- G. The Office of Management Enterprise Services, OMES, shall authorize payments to the counties from the monies held in the State Treasury in the ETR fund upon receipt of a completed claim form.
- H. The CED or non-CED member county shall provide all final documentation as requested by OCCEDB.
- I. The County shall issue or cause to be issued repayment to the "State of Oklahoma ETR Fund" and send the warrant to the Office of Management Enterprise Services, OMES.
- J. The Office of Management Enterprise Services, OMES, shall send monthly reports of warrants issued and repayments received for ETR fund to the OCCEDB.

### **VIII. Reimbursement of funds**

- A. The Emergency and Transportation Revolving fund may be reimbursed by any funding source or combination of funding sources approved by the Board of County Commissioners.

- B. Payments may be made by the County over time or in a lump sum as long as balance is paid in full by the end of the fiscal year or, if an extension/renewal is granted, by the end of next fiscal year.
- C. No interest shall be charged for the County's use of ETR funds.
- D. If a County chooses to reimburse the ETR fund by using County Bridge and Road Improvement (CBRI) funds, the transportation project must comply with Title 69 § 662.
- F. The Contract Agreement shall automatically terminate and all funds reimbursed by the county to the Emergency and Transportation Revolving Fund, unless renewed in accordance with terms set forth below, at the end of the current fiscal year.
- G. A County may renew the Contract Agreement for additional terms not to exceed one fiscal year each, upon the same terms and conditions. The exercise of any such option shall be accomplished the County signing and returning the Contract Agreement Renewal Resolution, furnished by OCCEDB, before the beginning of each Fiscal Year, to the CED board for its approval. The resolution shall then be forwarded to OCCEDB for its approval. If a County is a non-CED member, the extensions will be executed by the county and OCCEDB.
- H. If the County does not fulfill its obligations to comply with the repayment deadlines and/or amounts of any ETR funds borrowed, the OCCEDB will not consider future ETR funding requests from said County.

## **IX. OCCEDB Responsibilities**

The OCCEDB shall:

1. Manage the ETR fund and all its' subaccounts
2. Incur all costs of managing and auditing the ETR fund.
3. Coordinate and communicate with ODOT, CED's, Counties, State Auditors' office, State Treasurer's Office and the Office of Management Enterprise Services, OMES.
4. Provide all auditing documentation to the State Auditors' Office.
5. Provide documentation for the Legislature.
6. Provide each CED their CNG funding limit, 50% of July 1<sup>st</sup> ETR balance.