

07/10/2013

Client Instructions – Property Claims

ORM Internal Authority Designation:

Patricia Barron will be your primary contact person for all Property, Employee Bond and Crime, Boiler and Machinery (Equipment Breakdown) and Bridge claims. FARA has \$50,000 check issuance authority. Requests for check issuance authority above \$50,000 are to be made to Ms. Barron with a copy to Farrel Hebert. Farrel will respond to those requests when Ms. Barron is unavailable. When required, either Ms. Barron or Mr. Hebert will route requests for authority to the appropriate party above their respective levels of authority. Contract amendment approvals above \$20,000 must be provided by ORM. Contact information is as follows:

Patricia Barron	-	225-342-8467	-	patricia.barron@la.gov
Farrel Hebert	-	225-342-8424	-	farrel.hebert@la.gov
Ann Wax	-	225-219-0012	-	ann.wax@la.gov

RESERVES:

Initial reserves must be established within seven (7) calendar days of the receipt of the claim. Initial reserves are to be reviewed within 60 days after receipt of the claim as more is known about the claim.

ORM reserve authority is needed to increase reserves with a total incurred reserve of \$100,000 or greater. Subsequent reserve increases shall require approval by ORM. Email requests for reserve approval should reference “**reserves**” in the subject line.

Reserve requests shall be sent to Pat Barron for action. A copy of the request is to be sent to Farrel Hebert who will respond when Pat is unavailable. If the reserve request is above their authority, they will route it to the appropriate person within ORM for approval. Reserve requests shall include reasons for the increase. Reasons for changes to reserves shall be placed in the claim management system.

ORM reserve authority is not required for the following reserve changes nor should these be included on the monthly reserve report:

- **A decrease in the reserve where the total incurred is over \$100,000.**
- **Funds are shifted from one reserve category to another, but the total incurred amount is unchanged.**
- **Reserve adjustments/reallocations that occur within the same month that results in no change to the total incurred amount.**

RETROSPECTIVE RESERVE AUTHORITY

There will be instances when it will be necessary for FARA's ICE system to automatically generate reserve increases to accommodate certain transactions. This includes system generated and/or la ORM operator reserve changes. It will be necessary for FARA to obtain retrospective reserve authority in these situations.

At the end of each month, FARA will prepare a Generalized Claim Export for Reserves. No later than the 10th day of the month following the month of the increase, FARA will seek retrospective approval for reserve changes they have identified where the total incurred amount exceeds \$100,000 and ORM approval was not obtained. See exceptions noted above in bold. Individual requests noting justification for the increase must be submitted to ORM and should include the date the reserve was changed, and should request retrospective approved by ORM.

For System Generated Reserve changes on claims that are "closed", the adjuster shall reopen the claim, review the claim documentation and appropriateness of reserves, and submit a separate email requesting reserve authority if the total incurred is over \$100,000. Note, when the file was closed reserves were reduced to the total paid. Therefore, when the claim is reopened, new reserves must be established.

For System Generated Reserve changes on "open" claims, ORM will grant blanket retrospective authority for those claims listed on the respective monthly report. This retrospective authority shall be noted by FARA in each of the retrospective claim files identified. Additionally, it is expected that the assigned adjuster will review the claim to determine appropriate reserves and request updated authority to avoid future deficiencies

SUBROGATION:

1. FARA must protect the State's subrogation interest on all claims.
2. Requests to file a lawsuit to recover the State's subrogation interest should be made by the FARA adjuster at least ninety (90) days prior to prescription.
3. All requests for the appointment of an AAG staff attorney to pursue recovery of ORM's subrogation interest are to be made by FARA at least ninety (90) days prior to prescription. These requests should be directed to the attention of Farrel Hebert. ORM will prepare the Appointment and Contract Approval Form and submit it to the AG for assignment. The AG will notify FARA and ORM as to the name of the appointed attorney/law firm.
4. Authorization to waive more than 50% of ORM's subrogation interest must be reviewed for approval by ORM Claims Council.

5. On litigated subrogation claims the AG must submit an RSA for approval by ORM Claims Council when the AG is recommending that more than 50% of ORM's subrogation claim be waived.

CONTRACT AMENDMENTS:

DOJ/Office of the Attorney General Staff: The Office of Risk Management has an Interagency Agreement between ORM/DOJ for the legal services provided by the Office of the Attorney General. It will not be necessary for FARA to request any amendments for legal services performed by DOJ/Office of the Attorney General/Litigation Program. FARA adjusters do need to monitor billings for excessive charges and make sure that they have proper documentation in their files.

Contract Counsel – Contract counsel is appointed by the AG and concurred upon by ORM. A Contract for Professional Services is executed between ORM and the respective law firm/attorney. Amendments will be necessary when the initial contract has been exhausted or when it is expected to exceed the initial amount. The initial contracts to defense counsel are normally issued in the amount of \$20,000. So, it isn't uncommon to receive an amendment request along with the initial case assessment. Contract counsel must submit a budget in Acuity that will need to be approved by the FARA adjuster. Approval of a budget in Acuity DOES NOT eliminate the need for the adjuster to submit a written request for a contract amendment.

Since contracts are issued by ORM, we will need **written email requests for amendment requests up to \$199,999.99** in the following format along with a copy of the budget and a current case assessment (if complex or if the amendment request is over \$100,000.01):

RE: Request for Contract Amendment
Contract Number:
Claimant:
ORM Claim Number:
FARA Claim Number:
Contractor:
Current Contract Amount:
Requested Contract Amount:

The first paragraph should be a brief description of the loss and what legal action has been accomplished.

Second paragraph should include additional action required as well as note critical dates (hearings, trial date, etc.).

Third paragraph should include the amount of monies paid by ORM towards the defense of this claim on the current contract, the total amount of outstanding invoices, and a

statement recommending that the contract be increased from \$_____ to \$_____.

The adjuster will route this email to the respective ORM supervisor/manager for approval. If in order, the ORM supervisor/manager will approve it and forward the approved request to the ORM Contract's Unit for processing with a copy to FARA.

For contract amendment requests **\$200,000 and above, a Memorandum is required** which will be a Microsoft Word document that can be revised. The format will be as follows:

FARA Letterhead

Font will be Verdana 12 point

Modified Block style

Justified

MEMORANDUM is uppercase, bold, underscored and centered

Justified paragraphs

TO: J. S. "Bud" Thompson, Jr
State Risk Director

FROM:

DATE:

RE: Request for Contract Amendment
Contract Number:
Claimant:
ORM Claim Number:
FARA Claim Number:
Contractor:
Current Contract Amount:
Requested Contract Amount:

The first paragraph should be a brief description of the loss and what legal action has been accomplished.

Second paragraph should include additional action required as well as note critical dates (hearings, trial date, etc.).

Third paragraph should include the amount of monies paid by ORM towards the defense of this claim on the current contract, the total amount of outstanding invoices, and a statement recommending that the contract be increased from \$_____ to \$_____.

APPROVED BY:

J. S. "Bud" Thompson, Jr.
State Risk Director

Date

Joseph M. Roussel
Assistant Director for Litigation Management

Date

Ann D. Wax
State Risk Administrator - Claims

Date

Please try to keep the memorandum to two pages. A copy of the Acuity budget and a current case assessment should be included along with the amendment request.

This memorandum should be directed to Ann Wax for review. If in order, she will obtain the required signatory approvals and route to the ORM Contract's Unit for processing.

Approval Levels for Contracts:

<u>Amount of Contract</u>	<u>Approval Required</u>
\$ 0 - \$100,000	Claims Supervisor
\$100,000.01 - \$199,999.99	Claims Manager
\$200,000 and above	State Risk Administrator – Claims, Assistant Director for Litigation Management, State Risk Director, and Commissioner of Administration

CONTRACTS FOR EXPERTS:

When the assigned defense counsel and/or an adjuster requests an expert, the adjuster shall have the request for "Contract Expert/Consulting Services" form (See exhibit 11) completed (signed by the adjuster, FARA supervisor and defense counsel) and returned to the ORM Contract Reviewer, Deborah Grand at Deborah.Grand@la.gov. Ensure that the Curriculum Vitae, Fee Schedule and W-9 are attached. ORM Contracts will prepare the contract, obtain approval, and then route a copy to the FARA adjuster. When the contractor has concluded his assigned tasks and their services or no longer needed, or

upon expiration of the contract, the adjuster shall complete a Contract Performance Evaluation Form and submit it to Deborah.Grand@la.gov .

The FARA adjuster will provide:

- Expert's W-9
- Expert's name and company name
- Expert's address, city, state, and zip code
- Expert's phone and fax numbers
- Expert's Curriculum Vitae
- Expert's Social Security Number or TIN #
- Expert's Fee Schedule
- Amount of contract, and effective date
- Scope of Services
- If a potential expert is employed by a college or university, a PM 11 form is required, which grants permission from the college or university for the expert to handle private work.

EXPERT CONTRACT PAYMENT REQUESTS:

The adjuster will verify all necessary information and contract balances prior to submitting an invoice to ORM for payment.

1. List vendor/defense attorney name
2. List contract number, balance on contract prior to payment of invoice and contract dates
3. Invoice number, dates of service range and approved amount of invoice
4. If any invoice amount is reduced include an explanation of why it was reduced.

Example:

“Please place the attached invoice in line for payment. I have reviewed and audited the invoice and the charges are in line for payment as follows”.

CONTRACT PERFORMANCE EVALUATION FORM

Contract Performance Evaluations (CPE's) must contain all information required by the Louisiana Administrative Code, Title 34, Part V, Appendix F and Louisiana Revised Statute Title 39:1500. Adherence to these laws and guidelines are addressed in the agency's audits. Completion of this form is required at the conclusion of the case or upon expiration of the contract. This form shall be completed on all cases wherein defense counsel was assigned and where an expert was obtained under contract. CPE's must be signed by the handling adjuster and supervisor. Use this form to request contract renewals before the expiration of the 3 year attorney contract and to close out a contract upon the conclusion of the case. This includes AAG in-house attorneys. When outside defense

counsel has been assigned, Acuity will send the assigned adjuster a notice of contract expiration 90/60/30 days prior to the expiration date of the contract.

Actual Amount Paid – the total amount paid under this contract.

Contract Amount – current amount of contract

Hourly Rate of Pay – note rates per contract – i.e., regular rates or increased rates

Actual Begin and End Dates – date of the first and last billing entries

Number of Contract Amendments and Reasons: information will be input by ORM Contracts Unit.

Description of Services: Check off appropriate box

Deliverable Products: Monthly and Quarterly Reports

Remaining questions on form are self-explanatory.

Contract renewal requests (CPE) relative to contract counsel should be emailed to Lucille Gautreaux @ Lucille.gautreaux@la.gov. with a copy to Ann Wax @ ann.wax@la.gov.

ORM has an Interagency Agreement with DOJ – Office of the Attorney General – Litigation Program. The following questions will be left blank on the CPE for AG staff attorneys.

The contract Review #

Contract No.

Contract Amount

Hourly Rate of Pay

Contract Begin and End Dates

Actual Begin and End Dates

Number of Amendments

The remainder of the questions should be completed.

Contractor Name will be the name of the AG attorney – DOJ/AG – Litigation Program.

All other questions asked should be self-explanatory.

CPE's completed on cases handled by AAG, in-house attorneys should be emailed to Ann Wax @ ann.wax@la.gov. CPE's must be signed by the handling adjuster and supervisor.

DEFENSE COUNSEL BILLING:

Most defense attorneys will submit their invoices through Acuity. An exception may be made when defense counsel is out of state. Pat Barron must approve all invoices not presented through Acuity. The adjuster will provide the following required information when requesting contract attorney bill payments:

1. Defense attorney name
2. Contract number and remaining balance.
3. Outstanding, approved invoices with dates of service.

4. An explanation for any reduction in the invoice amount.

Example:

“Please place the attached invoice in line for payment. I have reviewed and audited the invoice and the charges are in line for payment as follows”.

Acuity contact person is Lucille Gautreaux at Lucille.gautreaux@la.gov>
(225) 342-1517.

PROPERTY CLAIMS HANDLING - NON/CATASTROPHE

1. To initiate a claim for damage to its property an agency will submit a First Notification of Loss (FNOL) form to the FARA claims department. This form may be found at www.laorm.com;
2. The FARA claims department will review the First Notice of Loss to confirm all required information was provided. If required data is missing, the agency will be informed that the claims process will not move forward until the missing data is submitted. **Required data includes, but may not be limited to, the damaged building’s State ID number, the building name, the agency location code and site code.**
3. Initial contact with the State agency presenting a claim is to be made by FARA within 1 business day of receipt of the claim. An acknowledgment letter will be sent to the agency within 2 business days of receipt of a claim by FARA. The acknowledgment letter should include the following:
 - a. The claim number and building’s State ID number.
 - b. Identify Policy limits for all applicable coverages; ie. building, mobile structure, general contents, computer equipment, applicable deductible amount.
 - c. Instruct the agency to reference the claim number and State Building ID number on all future correspondence, emails, and invoices.
 - d. Remind the agency to follow its own procurement guidelines when pursuing repairs or replacement.
4. Where required, property inspections are to be scheduled within 3 business days of receipt of claim, or sooner if the severity of the loss merits immediate inspection.
5. For non-catastrophic property claims an adjuster prepared repair estimate is required on all building losses greater \$7,500. This should include photos to

document the loss and a detailed scope of repairs considered. Exceptions are to be approved by the ORM supervisor having authority over the claim.

6. A copy of the adjuster's scope of damage/repairs will be provided to the agency.
7. In situations where the agency has had to undertake emergency repairs and/or mitigation efforts prior to the adjuster's inspection, proper documentation to support and justify the emergency procurement must be retained by LSU.
8. All losses in excess of \$500,000 must have an initial inspection by a FARA employed adjuster. This does not preclude FARA from obtaining assistance from an independent adjuster to document the scope of damages. ORM shall be provided with a detailed report which addresses cause, coverage, damage and subrogation within 10 days of the event, preferably accompanying the request for reserve setting at \$500,000 or above. This report must be attached in iCE and labeled so that it may be viewed by the appropriate ORM personnel.
9. Water mitigation efforts should take place prior to inspection by the adjuster. LSU should document the progress of the drying out of property, whether it is building or contents, by obtaining dated and labeled photographs that show the equipment being used. Photos should also be taken of content items that are relocated to prevent it from sustaining further damage.
10. No items being claimed should be disposed of without FARA's permission and proper pictorial documentation.
11. After the agency has solicited bid requests, a copy of all bids should be provided to FARA in order to document that proper procurement procedures were followed. The agency should be reminded that any change orders to the contract which change the scope of repairs must be submitted to FARA for approval prior to commencement. It is important to remember not all items on a contract charge order will be for insured items, thus a detailed review is mandatory. Examples of damage repairs that may not be insured are:
 - a. Interior water damage repairs due to wind driven rain without an opening created in the exterior of the building by wind/hail.
 - b. Business personal property left out in the open and damaged by rainwater.
 - c. Upgrades/Betterments.
12. Any items of repair that are not covered by insurance must be clearly identified to the user agency so that they may pursue other sources of funding before repair bids are solicited.

13. Repairs should not be contracted on a time and material basis. Contracts must be done in accordance with the procurement guidelines that apply to the involved agency. It is the adjuster's responsibility to establish the scope of repairs that are covered by insurance.
14. Payments are usually made directly to the repair vendor. Payments may be made directly to the agency when it is being reimbursed for the cost of repairs it has paid. This presumes that the agency has followed its own procurement guidelines in commissioning the work for which they request reimbursement. Contractor and vendor payments must include the original invoice, the claim number, the State ID and, where FEMA is involved, the PW number.
15. If a repair contract or payment request involves more than one building:
 - a. The invoice must include a breakdown listing the actual repair amount for each building.
 - b. The payment should be applied to the appropriate claim for the specific state ID.
 - c. An invoice that simply divides the invoice amount by the number of buildings involved will not be processed for payment.
 - d. Once all repairs have been completed, the agency should be contacted to ensure all invoices have been submitted for payment.
16. FP&C is expected to become involved only on those losses/claims that involve complex, permanent repairs or where architectural/design changes are a component of the work to be done. When involved, FP&C will follow its established bid/repair and Capital Outlay guidelines to facilitate repairs to State property. On new claims where FP&C, rather than the agency, is managing the repairs, the adjusters are to coordinate with FP&C to establish the scope of loss, identify repair items that may be excluded from coverage and pursue receipt of invoices and verification of completion of repairs to allow payments to contractors.
17. Claims where FP&C is not involved may be closed when documentation is received from the agency that all work is done and all repair invoices have been considered for payment. Those claims where FP&C is involved may be closed when all invoices have been paid and a letter is received from FP&C confirming that all repairs are complete.
18. On those open claims taken over by FARA on 1/17/12 where ORM is pursuing recovery from FEMA and/or the excess insurers, the adjuster is to presume that the established reserves are adequate and that the majority of payments have been made. Should a question arise regarding the percentage completion of repairs or the potential for additional payments, the adjuster should consult the LA Recovery website.

19. FARA will alert an agency when a claim has not been perfected within 24 months of the date of loss so that the agency may take action to complete the claim. No claim payments are to be made and file closure may not occur until repairs to the damaged property are complete and all potential recoveries have been received. Agencies are allowed up to three years from the date of loss to perfect their claim with ORM. This time frame may be extended by proclamation by the Governor or by written request by the involved agency to the State Risk Director.
20. Claims where FP&C is not involved may be closed when documentation is received from the agency that all work is done and all repair invoices have been considered for payment. Those claims where FP&C is involved may be closed when all invoices have been paid and a letter is received from FP&C confirming that all repairs are complete.
21. In the event of a named disaster, FARA will coordinate its investigations and claims payments with State and Federal agencies and the State's commercial insurance carriers. (See Catastrophe Section)
22. FARA will represent the State in the presentation of its claims to its excess insurance carriers, GOHSEP, FEMA and CDBG for all catastrophes that occur on or after 1/17/2012.
23. A Claim Review Committee will review claims involving coverage issues, complex repair issues, and/or disputed claims.

PROPERTY CLAIMS HANDLING – CATASTROPHE

In addition to the items listed for Non-CAT claims handling the following special instructions apply to catastrophic losses that bring about involvement by ORM's excess insurance carriers, FEMA or CDBG.

1. The excess insurance carrier representative is to be notified when the anticipated loss reserves reach 50% of the SIR. This notice is to be sent through the excess insurance broker:

**Risk Services of Louisiana, LLC.
3700 Jackson Street, Suite 201
P. O. Box 13558
Alexandria, LA 71303
Phone #: 318-484-3314**

It is anticipated that the broker will route this notice to the appropriate parties representing ORM's excess insurance carriers.

2. After a catastrophe, such as a named storm, FARA along with GOHSEP will provide general instruction to the State agencies to facilitate the agency's submission of the Request for Public Assistance (RPA) and/or the formulation of Project Worksheet (PW) to FEMA.
3. FARA will instruct the State agencies to provide the claim number and State ID number of the damaged building to FEMA/GOHSEP.
4. Claims for damage to contents or mobile structures should be identified with the Building, including its ID, to which it is attached. This information should be included in the actual PW prepared by the agency and/or GOHSEP.
5. FARA should be copied on all correspondence and documentation submitted to FEMA/GOHSEP by the user agencies/applicants.
6. FARA is to maintain a master list of all reference numbers and project worksheet (PW) numbers associated with a claim should be developed and maintained for all claims associated with a declared disaster.
7. FARA should inform the agency if an Independent Adjuster (IA) is assigned. It should also provide the name and contact information for the selected adjusting firm.
8. Agencies should obtain dated, labeled photographs of all the damages as soon as possible after an event. These will benefit FARA in documenting both the insured damages that will be covered by ORM and the uninsured

damages that may be considered by FEMA. This will not preclude the expectation that FARA will obtain its own photographs of damage as part of the adjustment process.

9. The agency working with GOHSEP should prepare a PW version for all change orders to ensure all damages are reflected in the PW.
10. Only change order items that are for insured damages and those approved by FARA will be considered as part of the claim.
11. Even if the change order includes non-insured items, the agency should still submit a PW version in order to receive funds for those damages that are FEMA eligible.
12. The FARA adjuster should conduct a detailed review of all change orders to approve only those that relate to insured repairs. Below are examples of items that are not insured, but may be eligible for FEMA consideration:
 - a. Hazard Mitigation Proposal (HMP) cost.
 - a. Contingency Cost Adjustments.
 - b. Direct Administration Cost (DAC
 - c. Interior water damage repairs due to wind driven rain without an opening created in the exterior of the building by wind/hail.
 - d. Business personal property left out in the open and damaged by rainwater.
 - e. Upgrades/Betterments.
13. Once all repairs have been completed, the agency should be contacted to ensure all invoices have been submitted for payment.
14. When all payments have been processed the formal reconciliation begins.

RECONCILIATION OF CATASTROPHE CLAIMS
WITH FEMA PROJECT WORKSHEETS

A PW may contain repairs for more than one building or claim. Thus, your review should develop the following:

1. Locate all PWs that pertain to a specific building.
2. Confirm the building/ State ID number on each PW is for the correct claim file.
3. Review the stated values per building. Consult with ORM Underwriting about questions that arise concerning these values.
4. All damages to a specific building that are recorded on multiple PWs is to be compiled on a spreadsheet to allow a true comparison of ORM damage assessments and payments made on specific property with the applicable FEMA PWs.
5. Check to see if there were any PWs written for the involved building/contents for a prior disaster, if so:
 - a. Determine and document that repairs for these prior damages were made prior to the current loss.
 - b. FEMA will consider only those new damages directly caused by the loss being reconciled.
6. FEMA payments for a previous disaster will impact the eligible amounts of a PWs being considered for a current disaster. Thus the following must be done:
 - a. FARA will need to verify the prior disaster reduction was applied correctly.
 - b. The amount of the prior disaster payment should be compared to the current PW so that the type of disaster is consistent. This means wind damage is compared to wind damage and flood damage is compared to flood damage. This is important to ensure the proper application of the prior disaster reduction.
7. FARA shall review the PW to ensure the proper insurance reduction was applied and that only insurable items were included in the insurance reduction.
8. Reconciliation of FARA payments with FEMA/GOHSEP payments involves the following:
 - a. Determine if all funds available for recovery from FEMA have been received by the agency and identify any duplication of payments.

9. Once all of the reconciliation steps have been completed, assemble the supporting documents into a single file and label as FEMA “Close Out”. This information will be needed by the agency at the time of close out with FEMA/GOHSEP.