

DNRC VEHICLE PROCUREMENT AND LIABILITY CHART (pages 1-5)

When an off-road vehicle is needed for use on or in support of a DNRC jurisdictional wildland fire or all-hazard incident, there are only two methods of vehicle procurement. Both methods require a resource order.

Method 1: For Off-Road use, vehicles may be rented utilizing either the DNRC Off-Road Rental Vehicle EERAs or NERV.

Method 2: A privately contracted Vehicle with Driver may be ordered through Dispatch.

For on-paved-road incident support, for instance running errands around town for logistics, there are only two methods of vehicle procurement. Both methods require a resource order.

Method 1: A vehicle may be rented through commercial rental car sources.

Method 2: A privately contracted Vehicle with Driver may be ordered through Dispatch.

Travel purposes only:

For Overhead travel purposes only (not for use on the incident), Overhead resources may rent a vehicle (through commercial sources for on-paved-roads only), or they may utilize their POV, at their own risk, for travel only.

The charts below depict different needs for vehicle utilization, the methods of procurement, and provide liability information. **Note:** This information is exclusive to DNRC jurisdictional incidents. DNRC Off-Road Rental Vehicle EERAs cannot be utilized to support an incident under federal jurisdiction. If that is the case, only NERV rentals may be used.

Ownership:	Purpose:	Hired As:	Agreement:	Policies/Instruments:
Employee-owned	Travel only	n/a	n/a	State of Montana Personal Vehicle Use Authorization Form
<p><u>Travel scenario:</u> An employee is resource ordered and needs transportation to an incident. No agency-owned vehicles and no rental vehicles are available. Carpooling is also not an option. The employee uses their POV for on-paved-road travel to/from the incident.</p>				
State of MT assumes:		<p>No liability for employee owned POV – Personal insurance applies The Personal Vehicle Use Authorization Form contains weblinks to RMTD's Liability Summary, and also, insurance coverage rules in MCA Title 61. (See below Section III, G.)</p>		
<p>RMTD Tort Liability (including Auto Insurance): https://rmtd.mt.gov/docs/insurance/files/tortliability22abstract.docx</p>				
<p>III. TORT LIABILITY (Including Auto) INSURING AGREEMENT Subject to Montana law, the state self-insurance plan provides the following coverage: G. State employees are encouraged to use state-owned vehicles while enacting state business. State employees who use their personal vehicles for state business must rely on their personal insurance for coverage. State employees who drive personal vehicles for state business are responsible for deductibles and co-insurance payments under their own personal vehicle policy.</p>				

Ownership: Commercial Rental Car Company	Purpose: For use only on paved road	Hired As: Un-Operated	Agreement: Rental Car Company agreement	Policies/Instruments: Employee does not purchase additional insurance. State of MT is covered under term contracts and Procard Visa.
<p>Important Notice: A Procard must be used to procure an on-paved-road rental vehicle through a commercial rental car company. Employees are prohibited from using a personal credit card to procure rental vehicles. Employees who do so assume all liability for damages and incidental expenses related to the purchase.</p> <p><u>Travel Only scenario #1:</u> An employee is resource ordered and needs transportation to an incident. The employee rents a car for on-paved-road travel to/from the incident.</p> <p><u>Travel Only scenario #2:</u> An employee rents a car to run errands (always on paved roads) for incident Logistics.</p>				
State of MT assumes:	State employees are covered under term rental car contracts and when utilizing their Procard for the vehicle rental. Use of a personal credit card to procure a rental vehicle is prohibited, as employee assumes all liability.			
<p>RMTD - Auto (Free Insurance Under Term Rental Car Contracts): https://rmtd.mt.gov/insurance/autofreesummary</p> <p>Travel Accident Insurance \$500,000 free accident coverage if caused by a common carrier (i.e. bus, coach, boat, plane, etc.) when employees of the State of Montana and the Montana University System use their state purchasing cards to purchase their entire common carrier travel fare. Free collision damage coverage when employees of the State of Montana and the Montana University System use their state purchasing card to pay for the vehicle rental and list the driver's name and the state agency/university they are connected with on the rental agreement. In order for coverage to apply, the name used for each rental purchase must match the name on the state purchasing card.</p> <p>Collision Damage Waiver/Liability When state agencies and universities rent vehicles from Enterprise/National or Hertz under the National Association of Procurement Officials (NASPO) agreement they receive: Free collision damage insurance. Free vehicle liability coverage to \$1,000,000 per occurrence for bodily injury or property damage.</p>				

Ownership: Private Contractor-owned	Purpose: For use on incident	Hired As: Fully Operated	Agreement: DNRC (or federal) EERA	Policies/Instruments: EERA General Clauses
<u>EERA scenario #1:</u> The incident hires a vehicle with driver to transport people, supplies, and otherwise support Logistics; off-road or on-paved-road.				
State of MT assumes:	No liability unless damage resulted from the negligence, or wrongful act of Government employee. See below Clause 15 of the EERA General Clauses.			
DNRC GENERAL CLAUSES TO EMERGENCY EQUIPMENT RENTAL AGREEMENT- https://dnrc.mt.gov/docs/forestry/Wildfire/fire-business/Agreement-Forms/EERA/2023-EERA-Clauses.pdf CLAUSE 15: LOSS, DAMAGE, OR DESTRUCTION For equipment furnished under this EERA with operator, the Government shall not be liable for any loss, damage or destruction of such equipment, except for loss, damage or destruction resulting from the negligence, or wrongful act(s) of Government employee(s) while acting within the scope of their employment. The operator is responsible for operating the equipment within its operating limits and responsible for safety of the equipment.				

Ownership: Rental Car Company (Specific Vendors on agreement)	Purpose: For use on incident	Hired As: Un-Operated	Agreement: DNRC Off Road EERA (or NERV)	Policies/Instruments: Contained in Section 1.4 of the DNRC Off Road Rental Vehicle EERA (or NERV policy https://nerv.firenet.gov/)
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EERA scenario #1:

The incident hires a vehicle and supplies a driver (EFF or regular employee) to transport supplies, and otherwise support Logistics.

EERA scenario #2:

The incident hires a vehicle to support an employee’s performance of his/her duties on the incident, i.e., Safety Officer, Heavy Equipment Boss, etc.

State of MT assumes:

No liability unless damage resulted from the negligence, or wrongful act of Government employee.

See below Section 1.4.1, a. and d. and Section 1.4.2 of the DNRC Off-Road Incident Rental Vehicle Agreement.

DNRC Off-Road Incident Rental Vehicle Agreement: Contact Lindsey Greene for the 2024 updated agreement (lgreene@mt.gov).

1.4.1 Contractor Liability for Personal Injury and/or Property Damage

- a. The Contractor assumes responsibility for all damage or injury to persons or property occasioned through the use, maintenance, and operation of the Contractor's vehicles or other equipment by, or the action of, the Contractor or the Contractor's employees and agents.
- b. The Contractor, at the Contractor's expense, shall maintain adequate commercial liability and property damage insurance during the continuance of this Agreement, insuring the Contractor against all claims for injury or damage.
- c. The Contractor shall maintain workers' compensation and other legally required insurance with respect to the Contractor's own employees and agents.
- d. The Government shall in no event be liable or responsible for damage or injury to any person or property occasioned through the use, maintenance, or operation of any vehicle or other equipment by, or the action of, the Contractor or the Contractor's employees and agents in performing under this Agreement, and the Government shall be indemnified and saved harmless against claims for damage or injury in such cases.

1.4.2 Loss, Damage, or Destruction For equipment furnished under this Agreement without operator, the Government will assume liability for any loss, damage, or destruction of such equipment, except that no reimbursement will be made for loss, damage, or destruction due to:

- a. Wear and tear, as defined in Section 6 – Wear and Tear of this Agreement
- b. Mechanical failure
- c. The fault or negligence of the Contractor or the Contractor's agents or employees or Government employee owned and operated equipment.
- d. Acts of God, such as, but not limited to hail, heavy rain, flooding, tornados, other severe weather, and other unforeseen and uncontrollable events.

This option is no longer available.

Ownership: Employee-owned	Purpose: Incident Use	Hired Method: Unincorporated	Agreement: DNRC EERA	Policies/Instruments: EERA General Clauses
<p><u>EERA scenario #1:</u> A lookout is staffed with an EFF and there are no agency-owned vehicles or off-road rental vehicles available. Due to exposure to the rugged off-road terrain, we hire the EFF's POV on an EERA.</p> <p><u>EERA scenario #2:</u> Because no other transportation options were available, a employee uses their POV, hired on an EERA, to perform duties on the incident pursuant to the employee's position, i.e., Safety Officer, line qualified Paramedic, Heavy Equipment Boss, etc.</p>				
State of MT assumes:	Liability because the employee is considered an independent contractor - personal insurance applies See RMTD's Liability Summary; see below Section II, definition of Employee. See also Clause 15 of the EERA General Clauses.			
RMTD Tort Liability (including auto insurance): https://rmtd.mt.gov/insurance/files/tortliability22acontract.docx				
II. DEFINITIONS				
Employee §2-9-101(2) MCA means an officer, employee, or servant of a governmental entity, including elected or appointed officials, and persons acting on behalf of the government entity in any official capacity temporarily or permanently with or without compensation, but the term employee does not mean a person or other legal entity who is acting in the capacity of an independent contractor or under contract to the governmental entity.				
DNRC GENERAL CLAUSES TO EMERGENCY EQUIPMENT RENTAL AGREEMENT - http://dnrc.mt.gov/docs/forestry/Wildfire/fire-business/Agreement-Forms/EERA/2023-EERA-Clauses.pdf				
CLAUSE 15: LOSS, DAMAGE, OR DESTRUCTION For equipment furnished under this EERA without operator, the Government will assume liability for any loss, damage or destruction of such equipment, except that no reimbursement will be made for any damage or destruction due to (1) ordinary wear or tear, (2) mechanical failure, or (3) the fault or negligence of the Contractor or the Contractor's agents, employees or Government employee owned and operated equipment.				