

Federal Highway Administration Emergency Relief Program Q&A

FHWA Florida Division
Version 3/11/08

Introduction

This document has been prepared by the Florida Division of the Federal Highway Administration (FHWA) as a supplement to the official Emergency Relief (ER) Manual (which can be found at: <http://www.fhwa.dot.gov/reports/erm/>). The intent of this document is to serve as a guide to answer common questions that arise after a hurricane related declared event occurs. It is not intended as an all-encompassing document. The FHWA still retains the ultimate decision regarding what is and is not eligible, beyond that which is covered in this document.

A repair is classified as an eligible emergency repair by the FHWA if it is performed during (meaning after landfall for hurricanes) and immediately following a disaster and if one of the following three criteria is met:

1. The purpose of the repair is to restore essential traffic; this includes proper Maintenance of Traffic (MOT) during emergency operations.
2. The purpose of the repair is to minimize the extent of damage.
3. The purpose of the repair is to protect remaining facilities.

Please note that, based on current ER guidance; safety is not a consideration to justify emergency repair work.

The ER manual discusses in more detail (chapter 2) the characteristics that constitute a “site”. Three basic characteristics that must be met are that: 1) the event has been a federally declared event, 2) the site is within the Right of Way (ROW) of a Federal-aid highway facility, and 3) the site meets a minimum threshold amount of \$5,000. The intent of the ER program is to not pay for highway damage repairs that a transportation agency would normally perform as heavy maintenance (see FHWA ER Manual section on Ineligible Items).

Emergency repair work can begin immediately without FHWA’s prior approval. An eligibility determination is made by FHWA after a site review and documentation with a Detailed Damage Inspection Report (DDIR). However, permanent repairs require FHWA review and approval prior to contract advertisement. A detailed engineer’s estimate and competitive bids are required like on normal federal-aid projects, but the use of abbreviated plans, a shortened advertisement period, etc; are appropriate depending on the scope of the work.

The counties and local governments will work directly with the State when seeking reimbursement through the FHWA ER program. The State will, in turn, work with the FHWA District Transportation Engineer (DTE). Back-up documentation (including location information for work performed) is required to be available upon request to justify costs for which entities seek reimbursement.

I. Detailed Damage Inspection Reports (DDIR's) - FHWA standard form FHWA-1547

1. **Writing DDIR's**

Separate DDIR's must be written for each County and Municipality seeking reimbursement under the FHWA ER program through the Florida Department of Transportation (FDOT). DDIR's including work completed or to be completed by a local agency must be signed by the local agency representative. There could be instances where a city is doing work for a county and the county will be paying the city then the county seeking reimbursement through the FDOT. In this case the DDIR must be written for the county (the owner) and not the city.

FHWA standard DDIR form FHWA-1547 is available at:

<http://www.fhwa.dot.gov/reports/erm/fhwa1547.pdf>

After each storm, FHWA determines whether or not a county will be considered a site in its entirety. DDIR's for State Forces work or State contract, are usually written for each affected county. DDIR's may include various types of work, especially when writing a DDIR for State signal work, or sign work on many routes within a county. A DDIR is needed for each damaged roadway site location (wash outs, bridge damage, etc), and the minimum \$5,000 eligibility threshold applies to each site location. All completed DDIR's must be submitted to the District Transportation Engineer (DTE) for an eligibility determination as soon as practicable. Initial and any revised DDIRs should be written within 6 months of the FHWA-declared event date. Any exceptions to this time limit must be approved by the FHWA Division Administrator.

DDIR's for debris removal must be written on a separate DDIR. Although DDIR's for debris removal can be written county or municipality wide (when deemed appropriate by FHWA), debris removal should not be combined on the same DDIR with other eligible items (e.g. signs and signals).

If the performance of the emergency repair work has started, FHWA will require a copy of the contract and prices at the time a DDIR is written. The contract and other back up material should be made available to the District Transportation Engineer, and will be attached to the DDIR at that time. Our expectation is that there should not be a request to write a DDIR for ongoing work, without having the contract documents available to FHWA staff. For permanent work the DDIR will be written without this documentation, because the work will not be underway and will be performed following normal procedures.

A DDIR is a cost estimate only. It can not be used as a contracting mechanism nor can it be used as environmental approval. We consider these inappropriate uses of the DDIR. The DDIR is written only to determine eligibility, scope, and determine a preliminary cost estimate for the work, which we use to support our request to headquarters for ER funding. The quantities shown on the DDIR should never be used to indicate actual scope, quantities or prices to the contractor.

2. Revising DDIR's

- 1) The initial Fiscal Management Information System (FMIS) authorization for ER projects must match the DDIR (scope and estimated dollar amount equal to or greater than the FMIS authorization request) and FHWA must have the necessary support documentation to backup the DDIR/authorization dollar amount prior to granting FMIS approval.
- 2) Subsequent FMIS modifications for dollar increases may be approved without revising the DDIR's, but support documentation must be obtained to backup any dollar increases requested in FMIS prior to the FMIS approval. Therefore, eliminating any delays resulting from revising DDIR's.
- 3) All FHWA DTE's must make sure that copies of any new or revised DDIR's get sent to the respective District federal-aid coordinator. The District federal-aid coordinator will in turn make sure an electronic copy gets sent to the FDOT Central Office.

II. Contractual Issues

1. Do the prequalification requirements apply to emergency contracts?

No, but FDOT prefers pre-qualified contractors be used. FHWA has no requirements for prequalification, other than State procedures can't limit competition.

2. Are pre-event emergency contracts allowed?

If normal federal-aid requirements are met, including competitive low bid pre-event contracts are currently allowed for debris removal, traffic control devices (signs and signals), and certain types of lighting.

For pre-event contracts that identify a sole source material supplier or proprietary product, a Public Interest Finding must be sent to FHWA for approval in advance of executing the contract, as per 23 CFR 635.411. This applies to both FDOT and local agency pre-event contracts.

3. Are Local Agency Program (LAP) /Joint Project Agreement (JPA) agreements required for local agencies to utilize ER funds?

For permanent repair work FHWA requires the FDOT to utilize the LAP Certification Process for repair projects done by locals. The LAP process is the method by which we have assurance that the Federal-aid requirements are understood and followed by the locals. Just like regular federal-aid projects these projects have to be authorized for construction and have to meet all regular federal-aid requirements.

Additionally, if the local agency does permanent work by force account they must be LAP certified and would have to seek FHWA approval, in the form of a Public Interest Finding, as being more cost effective than a competitive bid contract. [References: 23 U.S.C. 112, 23 CFR 635.106(a), 635.204, 635.205, 635.407(a), 635.411(c)]

For emergency repair work, the FDOT has the flexibility to use either the LAP Agreement or JPA when working with local agencies to utilize ER funds.

4. Important Note: For emergency work it is important to remember to take the following into account:

- a. Emergency repair projects under the ER Program must comply with the requirements of the National Environmental Policy Act (NEPA).
- b. Negotiated or solicited contracts are allowed for emergency work, but their use should be minimized. Some type of competitive bid from multiple contracting is the preferred method.
- c. Regardless of the contract method, there should be documentation on how contracts are negotiated, solicited, or competitively bid.

5. Do Buy America and other federal-aid requirements such as Davis-Bacon and Related Acts (DBRA) apply to emergency contracts?

Yes, FHWA Chief Counsel issued a briefing paper on Jan 27, 1994 reaffirming these requirements apply to all ER contracts, such as ADA, DBE, Davis Bacon, Buy America, etc. The FHWA 1273 and the FDOT Standard Specifications and Standard Indexes are supposed to be included in the contracts. The Standard Specs contain the Buy America requirements.

Listed below are the basic federal-aid requirements that must be followed for emergency repair projects and permanent restoration projects. These requirements apply to all State and Local Agency contracts for both emergency and permanent restoration types of projects. These requirements cannot be waived just because there is a State or FEMA emergency declaration.

- 1) FHWA Form 1273, titled Standard Federal-aid Provisions, must be physically incorporated (not referenced) into all prime and subcontractor contracts.
- 2) Davis-Bacon Wages Act – waived for Debris Removal services only; applies to all other work types
<http://www.fhwa.dot.gov/construction/cqit/dbacon.htm>
- 3) Buy America
- 4) Disadvantaged Business Enterprises (DBE)
- 5) Americans with Disability Act (ADA)
- 6) Convict Labor Prohibition
- 7) Public Interest Finding for force account permanent repair work

Notes of Exception for Debris Removal:

- As per a letter from Timothy Helm of the Office of Enforcement Policy from the US Department of Labor (received 8/25/2006), “DBRA requirements would not apply where the only work on a project is the removal of debris (and related clean-up) from a roadway or public right-of-way. However, debris removal performed in conjunction with construction, alteration, or repair work would be covered by DBRA requirements.” Additionally, the Davis-Bacon labor standards requirements do not apply to state or local government agency employees who perform work as in-house ‘force account’ work.
- The FHWA Form 1273 and Davis Bacon provisions do not apply to state and local employees performing ER work by force account (actual cost of labor, equipment and materials). A public interest finding is not required for emergency work, but is required if state or local employees perform permanent work.

III. Debris

Debris Collection Guidelines

Debris Removal

The intent of the Emergency Relief (ER) Program is to only remove that debris which was deposited on the Federal Aid Roadway by the FHWA ER eligible disaster event. As such, debris removal is expected to be completed within 60 days from the FHWA-declared event date. For example, in the case of hurricanes, this would be the date that the storm makes landfall. Specific operational parameters and guidelines necessary to clear the roadways are detailed in the FHWA Emergency Relief Manual.

First Push

The initial effort to clear the roadway, first push, includes cut and toss operations to push debris out of the traveled way. Subsequent efforts to push debris from the roadway will not be eligible for ER program reimbursement.

First Pass

The first pass is the initial effort to collect debris pushed aside during first push operations and the debris may be located within the cut and fill slopes, drainage ditches, and clear zone. All debris (vegetative and non-vegetative) must be collected at the same time as the first pass operation. Once debris from such roadway segments or locations has been initially cleared, subsequent efforts to clear and remove debris are not considered ER eligible expenses, regardless of the date or time in which the material was collected. It should be further clarified that with the exception of the initial collection of hazardous wastes deposited on the roadway by the storm and requiring separate handling and disposal, there can not be multiple first pass collection events for collecting different types of debris within the same roadway section.

Documentation of Debris Collection

The debris collected should be documented by specific information (e.g., load tickets, spreadsheets, etc.) that clearly indicates the date and exact location (federal aid roadway) where it was removed and the quantity of debris that was removed. Debris removed from federal aid routes should be clearly separated from debris taken from non-federal aid roadways.

Federal Aid Roadway

Federal aid eligible roadways are those shown on the approved federal aid maps and the list maintained by the FDOT State Planning Office.
<http://www.dot.state.fl.us/planning/statistics/fedaidinfo/>

Clearing Limits

The clearing limits for debris normally include the traveled way, cut and fill slopes, and any additional clearing required to assure the full functioning of the pavement, drainage ditches, and structures. It also includes the clear zone. Clearing of the remainder of the full right-of-way is the responsibility of the agency having jurisdiction and shall not be considered as part of the first pass collection activities eligible under the Emergency Relief Program. The definition of eligible limits for various federal aid road classifications is as follows:

- **Interstate:** eligible limits not to exceed 50 feet from the edge line, or the ROW limits, whichever is less.
- **US/State Roads:** eligible limits not to exceed 40 feet from the edge line, or the ROW limits, whichever is less.
- **Other Federal Aid Roads:** eligible limits not to exceed 20 feet from the edge line, or the ROW limits, whichever is less.

Definitions:

- **Traveled Way**

The “traveled way” is the portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

- **Clear Zone**

The “clear zone” is the total roadside border area, starting at the edge of the traveled way, available for use by errant vehicles. Simply stated, it is an unobstructed, relatively flat area beyond the edge of the traveled way that allows a driver to stop or regain control of a vehicle that leaves the traveled way.

- **Edge Line**

The “edge line” is defined as the line that separates the travel lane from the shoulder of the roadway.

General Debris Questions

- 1. Some of the debris being removed is being hauled to a temporary location and then transported to a permanent location (landfill). Is the cost of hauling the debris from the temporary location to the landfill eligible?**

Transporting the debris from a temporary location to the permanent location is an eligible item.

- 2. Some local agencies are saying Federal Emergency Management Agency (FEMA) will pay for the debris removal on the federal-aid highways. What should we do?**

FEMA management knows the initial push and first pass is FHWA's responsibility. If the locals are insisting FEMA will pay, provide the local agency with the following names and numbers for them to confirm FEMA will pay:

- a. Steve Glenn (404) 909-1781
- b. FEMA Region IV Office [Atlanta] (770)-220-5200
- c. FDOT Contact for FEMA reimbursement, Teresa Mast 850-414-4173

The attached letter to FEMA confirms FHWA's position.

- 3. FHWA will not base its estimates using the percentages from FEMA's worksheets.**

Reimbursement under the FHWA ER program must be based on actual first push and first pass time sheets and load tickets to be eligible.

- 4. Leaning Trees**

If damages from leaning trees within FHWA-defined eligible limits are such that the responsible agency decides that they cannot be saved and need to be cut then this cost is reimbursable under the ER program provided it is performed at the same time as the first push and first pass of the debris removal.

Staking of a tree after the storm is not an allowable expense and is considered a maintenance item. FHWA's ER role is to remove debris and not to maintain landscaping.

Stump grinding is eligible for reimbursement under the FHWA ER program; however stump removal is not an eligible activity.

IV. Lighting and Signals

- 1. Federal-aid highway lighting and ITS system repairs – Are these emergency or permanent restoration work?**

Most lighting and IT system repairs are permanent restoration work since it is not required to restore essential traffic. If any lighting or ITS system is determined to be emergency repair the DDIR needs to state why it was an emergency – safety can't be the reason. (See August 31, 2004 e-mail to FDOT)

- 2. The FDOT has a policy requiring the installation of Mast Arms for signals within 10 miles of the coastline. Mast arms are much more expensive than span wires, so will the cost of the mast arms be eligible for ER Funds? Is it acceptable to install the signals back with temporary span wires then come back with Mast arms as a permanent repair.**

We will pay for emergency repairs to get damaged signals working, including police, signs, generators, etc that are temporarily directing traffic. We will pay for mast arm installation in accordance with FDOT's current design standard (10 mile criteria) where the existing signals sustained significant damage (at least one pole needing replacement or straightening). The mast arm installation will be a Permanent Restoration project that goes through normal federal-aid procedures. (Discussed with Chris Richter, FHWA FLDiv.)

- 3. Installation of Light Emitting Diode (LED) signal heads:**

The replacement of older types of signal heads with LED signal heads is approved as long as the agency has a policy or standard in place prior to the event to only install LED heads. The sustained damage must first warrant signal head replacements. If only one signal head assembly is damaged, ER funds are not eligible to replace the undamaged assemblies.

V. Bridges

- 1. The FDOT is conducting a considerable number of underwater bridge inspections and sign inspections. The ER Manual states the general disaster assessment is not eligible. Will the cost of these inspections be eligible whether damage is found or not?**

No, this cost is part of the State's responsibility in assessing the damage.

- 2. Damage to bridge, especially scour:**

It is FHWA's responsibility to obtain reasonable assurance that the damage was caused by the eligible event. In the case of bridge scour, we should request the latest bridge inspection report. FDOT can bring it to the site for the damage inspection. Compare the new reported scour profile with that shown in the latest inspection report.

- 3. Bridge Damage Inspections**

The ER Manual Chapter II section B.1 states that: "Costs such as a general overall assessment of damage, general supervision, contract administration other than construction engineering, and project planning and scheduling are considered administrative costs that are not eligible because they relate to the overall responsibilities of an agency to manage and operate a highway system rather than to the design and construction of an individual repair project."

Therefore, any damage assessment (including initial bridge damage inspection right after hurricane) is not eligible for ER funds.

If a damage assessment (i.e. initial damage inspection) shows that an emergency repair is needed, and if a further (second) in-depth bridge inspection is necessary to provide detailed damage information for the purpose of design and/or construction, the second bridge inspection is eligible for ER funds because it is for the ER design and/or construction. However, the initial damage assessment itself is not eligible for ER funds regardless whether or not a bridge needs to be ER repaired.

VI. Construction Engineering and Inspection (CEI)

1. Are CEI services an eligible item under the FHWA ER program?

CEI services for eligible ER projects are eligible. However, if work that is not eligible as outlined in the FHWA ER Manual such as general disaster assessment, overhead, project planning/scheduling, etc. is being done, that portion is ineligible. Documentation must be adequate to delineate between eligible and non-eligible work. A separate DDIR should be written for CEI services.

In order to be eligible for reimbursement under the FHWA ER program, any consultant CEI monitoring services must be contracted directly through a public agency.

2. Can the State utilize an existing consultant contract for Emergency or Permanent Restoration project Preliminary Engineering (PE) or CEI?

Yes, existing consultant contracts can be utilized for emergency or permanent restoration projects with the following conditions: (Discussed with Chris Richter, FHWA FLDiv.)

- a. The existing consultant contract must have been procured by the normal federal-aid procedures – in accordance with the State’s Consultant Selection process for Federal-aid work.
- b. The existing consultant contract must be federalized, thus already performing Federal-aid work, not only state funded work.
- c. The PE or CEI work must be added to the existing agreement as a separate task so ER eligible costs can be easily kept separate.
- d. Prior to beginning the PE or CEI task for permanent work, the extra work must be authorized in FMIS by FHWA. Emergency work can proceed without prior FHWA authorization. The authorization request must specify the task is being added for ER work and identify the DDIR number.
- e. If the consultant contract being tasked is an oversight project, then the actual task scope will have to be submitted to FHWA for approval prior to the authorization as with other oversight projects. CEI work must be contracted through a governmental agency.

3. Will FHWA reimburse costs for debris monitoring contracted through a private company or contractor?

No. Monitoring services must be contracted directly through/to a public agency (State DOT, local agency, turnpike authority, etc.) in order to be eligible for reimbursement under ER program. A contractor can not hire the monitoring firm responsible for monitoring the contractor's work. They must be hired by a public agency.

VII. In-House Forces

1. FDOT In-house forces

FDOT must tie all in-house forces work to eligible ER work sites and identify the work by county. For example, if in-house forces performed bridge, roadway, sign, or signal repair work, the individual sites must be identified so a decision can be made regarding the eligibility of the site. The submitted costs must be supported in this manner. If in-house forces are for debris removal, the FDOT must provide a statement the debris removal was for initial push / first pass only on Federal-aid highways. As long their was substantial debris removal completed in that particular county, eligibility should not be an issue once FHWA has the assurance it was initial push / first pass on federal-aid highways. (10/3/05 Discussed with Chris Richter, Bob Wright, and David Gibbs, FHWA FLDiv.)

2. Temporary Housing Camps

If State or local agencies utilized a "camp" to house personnel performing ER eligible work, the reasonable costs are eligible. FHWA can only reimburse the full lump cost if the State or local agency demonstrates all the employees were performing ER eligible work. If only a portion of the employees were performing ER eligible work, FHWA will consider the appropriate portion for reimbursement. The cost of the camp must be broken down to fully support all the submitted cost. (10/3/05 Discussed with Chris Richter, Bob Wright, and David Gibbs, FHWA FLDiv.)

3. Inmate Labor

Prison labor is not allowed within the limits of a federal aid project, thus there is no way to reimburse the FDOT for inmate labor from the Department of Corrections for emergency debris removal. (Discussed with Greg Wolf who discussed with Dwight Horne, FHWA HQ)

4. The FDOT and local governments are using in-house force account labor for emergency work (such as debris removal, etc.), as part of this force account work can we reimburse the cost of lodging (hotel, RV, etc), meals, rental cars, portable toilets, tolls?

Yes, within the following limitations. (Discussed lodging and meals with Greg Wolf who discussed with Dwight Horne, FHWA HQ) Reasonable justifiable costs for these items are only eligible if the employees are strictly performing work on ER eligible projects and the documentation identifies the ER projects –

which must be tied to a DDIR. If the employees are also performing work not eligible for ER reimbursement, then the items used by those employees are not eligible. If people not performing work on ER eligible projects are also utilizing the items (rental cars, toilets, etc.) then the cost of such items are not eligible for reimbursement under the ER Program.

VIII. Active Construction Projects

1. Is pre-disaster work eligible, such as removing barricades from existing projects?

Pre-disaster preparations are ineligible under the FHWA Emergency Relief program (ER). However, any work within the limits of an active federal job could be paid with project funds using a supplemental agreement, if FDOT instructed the contractor to take some kind of action.

2. Is damage from an eligible event on active construction projects eligible?

Some damage on active Federal-aid highway projects is eligible. However, it must be determined it is not the responsibility of the contractor. Damage to equipment or stockpiled material is not eligible. The material has to already be permanently incorporated into the federal-aid highway project. Damage to landscaping on active projects is not eligible. Damage to the Contractor or CEI trailers is not an eligible item. The most common eligible damaged items are signs, MOT devices, signals, debris, and major erosion/washes from flood waters (not abnormal rainfall). However, erosion from stockpiled material is not eligible. Eligible emergency work is normally completed by executive supplemental agreement with the existing contractor.

3. Permanent restoration work on active construction projects:

If there is ER eligible work on an active construction project that is determined to be Permanent Restoration, there are two choices:

- a. Require the State to let a competitive bid contract according to normal Federal-aid procedures, or
- b. The existing contractor may perform the work if FHWA concludes:

“It is most economical to have the existing contractor complete the work at existing contract prices or at negotiated prices. This situation usually occurs for a relatively small amount of work. Therefore, this DDIR authorizes the State to proceed with the permanent restoration work accordingly.”

This means the Contractor may proceed with the permanent work the day the DDIR is signed. The authorization in FMIS should follow soon after. The above statement must be on the DDIR when this situation occurs.

IX. Eligibility Questions (miscellaneous)

The following topic areas have been raised regarding their eligibility:

1. Landscaping

Landscaping repair is only eligible if it is incidental to otherwise eligible Federal-aid highway repair. This means you can not have a damage site only involving landscaping repairs.

2. Other projects constructed with Federal-aid funds off the Federal-aid highways

No, the damage must be on a Federal-aid highway.

3. Sidewalks and Trails

A sidewalk or trail that is within the ROW of a Federal-aid highway, and that is damaged along with that highway, is eligible for repair using ER funds. If a sidewalk or trail is outside the highway ROW then it is not eligible for ER funding, but may be eligible under FEMA's Public Assistance Program. If a sidewalk or trail within the ROW is damaged but the highway is not damaged, then the sidewalk or trail is not eligible for ER funding.

4. Railroad Crossings

Yes, damage to railroad crossing signs, signals, sign structures, bells, etc are eligible if the crossing is on a Federal-aid highway. The DDIRs would be handled with the FDOT (usually a Central Office Rail Office). The railroad company would also be involved, especially supplying disaster assessment and repair costs. Essentially a county for each railroad will be considered a site. If a particular RR company has less than \$5,000 in damage in a declared county – that damage does not qualify for reimbursement.

5. Logo Signs

No, repair costs for LOGO signs are not eligible for FHWA ER fund reimbursements, since they were not erected using public funds. (Logo background board and logos panels are furnished and installed by Florida Logo Company as part of franchise contract to provide the boards and sell the spaces at no cost to FDOT.)

6. Pre-Disaster activities by state or local agencies

No, pre-disaster activities are not eligible. Agencies are expected to take the necessary action to minimize damage. The lowering of high mast lights is one example of work that is not eligible.

7. Administrative Costs

Maintenance, administration, and overhead costs of State or local governments are not eligible. Costs such as a general assessment of damage, general supervision, contract administration (other than construction engineering), and project planning/scheduling are considered administrative costs that are not eligible because they relate to the overall responsibilities of an agency rather than the design and construction of an individual repair project. Regular and overtime salaries/wages plus payroll additives of employees directly engaged in the performance of work on ER

projects are eligible. The employee's time must be documented and tied to eligible ER projects and therefore tied to a DDIR. Engineering and general office supplies of an expendable nature charged from stock or purchased **for a particular ER project** are eligible.

8. Utilities

Repair to damaged utilities on federal-aid highways is not an eligible item under the ER program. Damage to power lines, sewer and utilities owed by the FDOT at rest areas is eligible.

9. Service Patrols

Some reimbursement requests have been submitted in counties where there was no damage. These can be eligible if it is service beyond the normally provided service patrols, near the areas or counties damaged, and needed to monitor/assist traffic beginning on the established date of the event.

Proper maintenance of traffic (MOT) must be followed during ER events.

10. Temporary Weigh Stations (operated by Motor Carrier)

If weigh stations are installed to monitor loads on bridges that suffered eligible damage or temporary bridges installed as a result of eligible damage, the installation and operating (including personnel, etc.) costs are eligible as long as it is beyond their normal work load (extra personnel - rather than pulling personnel from elsewhere).

11. Fence Repair

Fence repair in rural areas is normally not eligible for emergency repair.

12. Insurance Coverage

If there is insurance coverage for damage, the ER Program can not pay for items covered by said insurance. We expect the agencies to pursue insurance first. If insurance will not pay for all eligible damage, the ER program can pay for the balance as long as it is all for ER eligible work.

13. Temporary Generators (for traffic signals and rail crossing signals)

Yes, if generators were purchased, ER can be used to pay the blue-book equipment rental rate not to exceed the purchase cost; after reaching purchase price pay cost to operate and maintain. If rented, will pay cost rental cost. ER funds can not be used to buy equipment. (This also applies to other equipment such as chain saws, etc.)

14. General Disaster Assessments - Will the cost of these inspections be eligible whether damage is found or not?

No. The ER Manual states the general disaster assessment is not eligible. This cost is part of the State's responsibility in assessing the damage. (Discussed with Chris Richter, FHWA FLDiv.)

15. National Environmental Policy Act (NEPA) Compliance

Emergency repairs normally meet the criteria for a Categorical Exclusion (CatEx) as defined in 23 CFR 771.117(c)(9). ER projects to permanently restore the existing facility in-kind at the existing location also qualify as a CatEx. However, if impacts to protected or otherwise sensitive resources are possible, advance coordination with the appropriate local, State, and Federal resource agencies should be performed to avoid or minimize project delays or shutdown.

On occasion, an ER project that includes betterment, whether or not eligible for ER funding, may require further NEPA review. Care should be taken to recognize potential conflicts that could require more in depth analysis that could result in the need to perform an Environmental Assessment or Environmental Impact Statement.

16. Toll Facilities

Most of Florida's toll facilities have current Section 129 Agreements and are therefore eligible for the ER program. However, part of the sustained damage is to the service plaza buildings. These service plazas have various functions – rest rooms, gas stations, food courts. Can the damage repair to the service plaza buildings be eligible for ER Program reimbursement? If these areas are on a facility that has a current section 129 agreement, and are within the highway ROW's and are on a Federal-aid route, then they would be eligible for ER. Also, the per site damage must meet the minimum \$5,000 threshold. (Discussed with Greg Wolf, FHWA HQ)

17. Debris Storage Sites

FHWA does not reimburse costs incurred for fencing and security of temporary debris storage and removal (TDSR) sites.

X. Miscellaneous Issues

1. Declared Counties

The Governor's Declaration included the entire State for most of the hurricanes before landfall. If FEMA has the county declared it makes FHWA's decision easier in determining if a particular county's damage is eligible for ER reimbursement. **All DDIR requests in counties not on FEMA's declaration list (with supporting documentation) must be submitted to the FHWA FLDIV Program Operations Engineer for review and approval.** FHWA will consider damage in counties not on FEMA's declared list, but the damage must clearly meet the \$5,000 per site threshold. Most likely this will be sporadic damage; therefore, the sites must be clearly identified. Do not combine minor damage sites to reach the \$5,000 threshold in these counties. For example, if there are a few signs damaged, each one needs to meet the \$5,000 threshold to qualify. Or they must be adjacent to one another. (10/3/05 Discussed with Chris Richter, Bob Wright, and David Gibbs, FHWA FLDiv.)

2. The CFDA # (The Catalog of Federal Domestic Assistance number) for all ER Program work is 20.205

<http://12.46.245.173/cfda/cfda.html>

http://12.46.245.173/pls/portal30/CATALOG.PROGRAM_TEXT_RPT.show

JCR:awa JCR:LM:GH
S:OFFICE\ProOps\Emergency Relief Program\FAQ\FAQ ER Guidance.doc
As of 3/11/08