

Emergency Relief (ER) Program Overview

Federal Highway Administration

Background - Congress authorized in Title 23, United States Code, Section 125, a special program for the repair or reconstruction of Federal-aid highways and roads on Federal lands damaged as a result of:

- *Natural Disasters* - Damage to highways must be severe, occur over a wide area, and result in unusually high expenses to the highway agency. Examples of natural disasters include floods, hurricanes, earthquakes, tornadoes, tidal waves, severe storms, or landslides.
- *Catastrophic Failures from an External Cause* - The failure cannot be the result of an inherent flaw in the facility but was sudden, caused a disastrous impact on transportation services, and resulted in unusually high expenses to the highway agency. A bridge suddenly collapsing after being struck by a barge is an example of a catastrophic failure.

This overview describes the requirements and procedures applicable to the ER program for Federal-aid highways (highways other than those functionally classified as local roads or rural minor collectors). The ER program for Federally-owned roads is administered by the Federal Lands Highway Division Office. Federally-owned roads include forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads, whether or not such highways, roads, or trails are Federal-aid highways.

General Requirements

- Each event must be declared a disaster by the Governor.
(The President may declare such emergency to be a major disaster for the purposes of the Robert T. Stafford Disaster Relief and Emergency Assistance Act)
- The damaged roadway must be a Federal-aid highway. Non-Federal-aid highways may be eligible for assistance through the Federal Emergency Management Agency's (FEMA) Public Assistance Program. FEMA's Public Assistance Guide is available online at <http://www.fema.gov/government/grant/pa/paguided.shtm>.
- The Federal share payable for each event should be at least \$700,000 to qualify for ER funding. The Federal share payable for each site should be at least \$5,000. The purpose of these thresholds is to distinguish between heavy maintenance or routine emergency repair and serious damage eligible under the ER program.
- Highway facilities may be restored to pre-disaster conditions. Any changes to the function or character from that of the predisaster facility are generally not eligible for ER funding unless justified on the basis of economy of construction, prevention of future recurring damage, or technical feasibility. However, repaired facilities may be built to current design standards.
- Normally, eligible work must be within the highway right-of-way.

Two Major Categories of Repair

1. *Emergency Repairs* - Those repairs needed to restore essential traffic, minimize the extent of damage, or protect the remaining facilities. Emergency repairs can begin immediately following a disaster. Prior FHWA approval is not required. Properly documented costs will later be reimbursed once FHWA makes a finding that the disaster is eligible for ER funding.
2. *Permanent Repairs* - Those repairs that permanently restore the highway to its pre-disaster condition. Permanent repairs require prior FHWA approval and authorization.

Eligible Items - Generally, all elements of the damaged highway within its cross section are eligible for ER funds. Roadway items that are eligible may include: pavement, shoulders, slopes and embankments, guardrail, signs and traffic control devices, bridges, culverts, bike and pedestrian paths, fencing, and retaining walls. Other eligible items may include: engineering and right-of-way costs, debris removal, transportation system management strategies, administrative expenses, and equipment rental expenses.

Emergency Relief Process Summary – There are three methods for developing and processing a State request for ER funding. The “Traditional Method” is summarized below. The other two methods are referred to as the “Traditional (Expedited) Method” and the “Quick Release Method” (see the attached flow chart). The Expedited Method allows for a streamlined damage assessment process while the Quick Release Method is intended to provide ER assistance to a State as quickly as possible.

Traditional Method Process:

- *Restore Essential Service* - Emergency repairs are repairs made during and immediately following a disaster to restore essential traffic, to minimize the extent of damage, or to protect the remaining facilities.
- *Governor's Proclamation* - The Governor issues a formal proclamation of the existence of a disaster. A Presidential declaration can serve the same purpose.
- *Letter of Intent/Acknowledgement Letter* - The State files a letter of intent to apply for ER funding with the FHWA Division Office and the Division Office responds to the State with an Acknowledgement Letter.
- *Conduct Damage Assessments* - Typically, this involves site visits to verify the extent of damage and to estimate the cost of repairs eligible for ER funding. If there is a need to expedite the delivery of ER funding for high-cost disasters, an initial damage assessment may be based on aerial fly-overs, news telecasts, and other means of quickly estimating the extent of damage. This initial damage assessment is followed-up later with more detailed site inspections.
- *Prepare Damage Survey Summary Report* - The State requests ER funding based on the detailed damage inspections. The State's request, along with the information from the detailed inspections are submitted to the FHWA Division Office for a finding by the Division Administrator.
- *FHWA Division Administrator's Finding* - For events approved for ER funding, the Division Administrator issues a letter to the State transportation agency notifying the State of the approval. Concurrently, the FHWA Division Office requests the FHWA Headquarters Office of Program Administration to allocate ER funds.
- *Implementation of Projects* – ER projects are usually advanced in the same manner as regular Federal-aid highway projects. Generally, the State transportation agency has the lead in project administration.

Funds Available: \$100 million is authorized annually for the ER Program under 23 U.S.C. 125. By law, the FHWA can provide up to \$100 million in ER funding to a State for each natural disaster or catastrophic failure that is found eligible for funding under the ER program (commonly referred to as the \$100 million per State cap). Any ER requests that exceed that amount would require Congressional action to lift the mandated \$100 million per event per State limit. Also, the total ER obligations for U.S. Territories (American Samoa, Commonwealth of Northern Mariana Islands, Guam, and Virgin Islands) is limited to \$20 million in any fiscal year.

When ER funds are not available for allocation to the States (because of a backlog of requests), ER funding requests received in Headquarters are recorded and held by the Office of Program Administration pending the availability of additional funds.

The following options could be used to fund or advance ER projects on an interim basis:

1. Use of unobligated ER funds from other ER events in the State.
2. Use of regular Federal-aid highway funds, appropriate for the type of Federal-aid highway.
3. Use of Advance Construction (AC).

Additional Information - The Federal Highway Administration maintains a web site with an overview of the ER Program (see <http://www.fhwa.dot.gov/programadmin/erelief.cfm>). There is also a copy of the latest ER Program Manual that provides information for FHWA, State, and local transportation agency personnel on policies and procedures for requesting, obtaining and administering ER funds (see <http://www.fhwa.dot.gov/reports/erm/index.cfm>).

Emergency Relief Process Flow Chart

