

Emergency Relief Program Overview

FEDERAL HIGHWAY ADMINISTRATION

Training Agenda

- Program overview
- Application Process
- Emergency Repair
- Permanent Repair
- Debris Removal
- Detailed Damage Inspection Reports (DDIR)
- Contracting Methods
- Special Circumstances
- Examples
- Wrap-up

Program Overview

Emergency Relief Program Description and Requirements



Program Overview

- There are two separate federal disaster programs
 - FHWA – Emergency Relief Program
 - FEMA – Robert T. Stafford Disaster Relief and Emergency Assistance Act

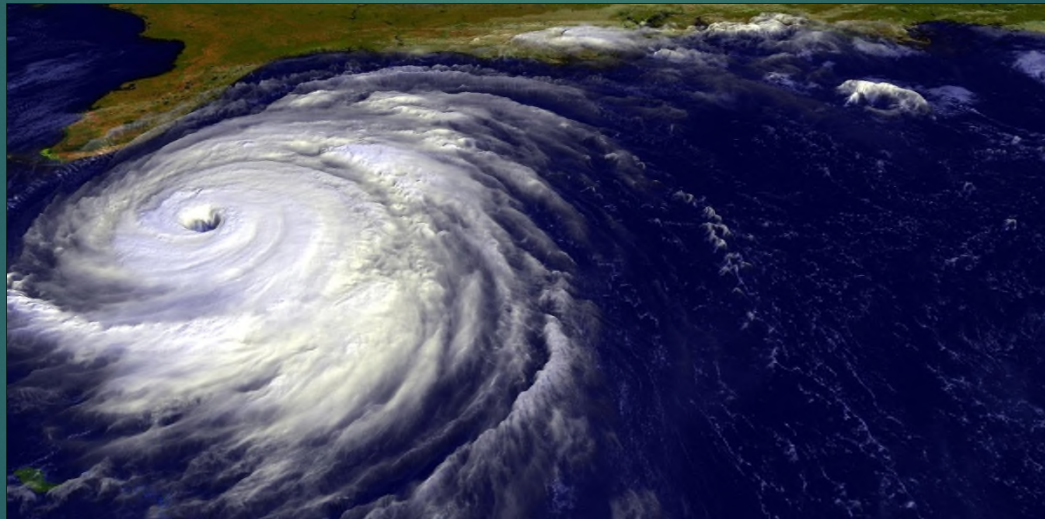


Program Overview

- ▶ What is the Emergency Relief Program?
- ▶ 23 USC 125 (a)
 - ▶ Repair or reconstruction of highways, roads, and trails that have suffered serious damage as a result of (1) natural disaster over a wide area or (2) catastrophic failures from any external cause.

Program Overview

- ▶ Natural Disasters:
 - Unusual natural occurrence which causes serious damage over a wide area.



Program Overview

▶ Catastrophic Failure

- “The sudden failure of a major element or segment of a Federal Road, which is not primarily attributable to gradual and progressive deterioration or a lack of proper maintenance.”



Program Overview

Program Funding

- ▶ **\$100 million** set-aside from the Highway Trust Fund for nationwide coverage in any single year.
- ▶ Minimum **\$700,000** Federal share threshold in damages per event.

Program Overview

Roadway Eligibility:

- ▶ Federal Aid Highways
 - ▶ Defined in 23 U.S.C. section 101
- ▶ NO Local Roads
- ▶ NO Rural Minor Collectors
- ▶ Use Functional Classification Maps

<http://www.fdot.gov/statistics/fedaid/default.shtm>

Program Review

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► Eligibility Limits

- The site must have suffered \$5,000 **in damages** to be eligible for ER funds. **Meeting the \$5,000 threshold does not guarantee site eligibility.**
- Sites cannot be combined to meet the \$5,000 minimum damage threshold, with the following exception:
 - Generally, a site is an individual location where damage has occurred. However, a site could include several adjoining locations where similar damage, related to the same cause, has occurred. **Sites within 1/4 of a mile may be grouped together to form an eligible ER site. Grouped sites should be on the same federal road.**

Application Process

▶ Preliminary Application Process

1. Governor's Proclamation or President's Declaration
2. Letter of Intent
3. FHWA Acknowledgement
4. FHWA Eligibility Finding by the FL Division Office (Division Administrator)

Application Process

- ▶ There are two different Application Types:
 - Traditional Method
 - Quick Release Method

Application Process

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► Quick Release

1 to 2
days
after
the
event.

1. Preliminary Application Steps
2. Disaster Assessment: Broad Overview of extensive and readily evident eligible damage
3. Formal State Request for ER Funding
 - ❖ Brief letter of request submitted
 - ❖ Division makes determination of eligibility
 - ❖ Initial estimate and allocation to start flow of funds
4. Damage Survey Summary Report developed (Provides more detail)
5. Detailed Damage Inspections (DDIRs) are completed ASAP for site eligibility and the programming of projects

Application Process

- ▶ Damage Survey Summary Report
 - Prepared by FDOT for FHWA FL Division Office for eligibility determination by Division Administrator
 - Content furnished by FDOT:
 - Description of damage and approximate cost for each County
 - Description of the limits and damages w/dates of occurrence
 - Pictures – photos of each County w/ maps

State Highway Agency Role

- ▶ Request Emergency Relief Funding
- ▶ Participate on Detailed Damage Teams
- ▶ Identify Damaged Sites
- ▶ Complete the Detail Damage Inspection Reports (DDIR)
- ▶ Complete Emergency Repairs (ER)
- ▶ Administer Permanent Restoration (PR) Projects
- ▶ Coordinate Locally Administered Projects

Local Agency Role

- ▶ Coordinate with FDOT District ER Coordinator
- ▶ Participate on Detailed Damage Teams
- ▶ Identify Damage Sites
- ▶ Complete Emergency Repairs (ER)
- ▶ Administer Permanent Restoration (PR) Projects
 - ▶ Must be LAP certified for Permanent Restoration projects

Purpose and intent

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- ▶ Purpose and intent of Emergency Repairs and Permanent Repairs
 - Repair Damage Resulting Directly from an Eligible Event
 - Work performed prior to landfall is NOT eligible
 - Supplemental \$\$
 - State Program
 - Local Program
 - Restoration to pre-disaster conditions (exceptions might apply)

Purpose and intent

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Not intended for:

- Covering all repairs
- Relieving heavy maintenance responsibilities of Federal-aid recipients
- Non Federal-aid highways



Emergency Repairs vs Permanent Repairs

Emergency Repairs

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- Emergency Repairs may begin without FHWA prior authorization
- For Emergency Repairs all costs incurred within 180 days receive 100% funding.
- Normal pro-rata share for work performed after 180 days.

Emergency Repairs

▶ 23 CFR 668.109(b)(4)

- Minimize the extent of damage
- Protect remaining facilities (from imminent damages)
- Restore essential traffic
 - Restoring essential traffic is defined as the minimum repairs necessary to open the roadway to emergency vehicles, utility and/or construction vehicles and roadways that lead to emergency facilities (if no detours are available).
 - Example: If a bridge washes out and there's a detour available, the detour and MOT is considered the emergency repair.
 - If there is no viable detour then installing a temporary bridge could be considered an emergency repair.
- Safety is **NOT** a justification for determining emergency repairs eligibility.
 - Lighting is a safety feature

Permanent Repairs (PR)

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23 CFR 668.109(b)(1)

- ▶ Restoring Highway to Pre-disaster Condition
- ▶ Pro-rata share
 - ▶ 90% for Interstate
 - ▶ 80% for non-interstate
- Requires Prior FHWA Approval & Authorization
- Normal FHWA Procedures are Required
- **Public Interest Finding required for Force Account work performing Permanent Repairs**
- LAP Agencies must be LAP Certified to perform Permanent Repair Projects

Examples of Eligible Items

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1. Initial Push/First Pass Debris Removal
(exceptions apply)
2. Roadway damage disposal and repairs
3. Traffic control devices
4. Labor and equipment
5. Railroad Crossings (Crossing Fed Aid Routes only)
6. Generators used for signals and RR crossings that have suffered \$5,000 in damages.
7. Overtime hours for Service Patrols and Police performing traffic control activities (must be work related to an eligible ER site).

Examples of Eligible Items

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1. Engineering and ROW
2. CEI and Inspection Services (must be work related to an eligible ER site and broken down by hours worked on each site)
3. Detours (for eligible sites)
4. Overlays
5. Slides
6. Toll Facilities
7. Bridge and Culvert Repair
8. Landscaping (if incidental to other eligible repair)
9. Others (Refer to the FHWA ER Manual)

Ineligible Items

1. Pre-existing Conditions (ex. bridge scour)
2. Expenses incurred prior to the event
3. Betterments (eligible with approved justification)
4. Inmate labor
5. Preventive Work
6. Damage to Contractor Equipment
7. Generators to only restore power to traffic Signals.

Ineligible Items

1. Heavy Maintenance
2. Pavement Damage caused by Traffic
3. Applicant Owned Material
4. Minor Erosion Damage
5. Prior Scheduled Work
6. Catastrophic Failure from Internal Cause
7. Stockpiling Materials
8. Purchase of equipment or tools

Heavy Maintenance

▶ What is Heavy Maintenance?

Includes but not limited to:

1. Minor damage to eroded shoulders
2. Filled ditches and culverts
3. Mud and minor debris deposits
4. Slip-outs in cut or fill slopes

FHWA Authorization

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Activities that don't require prior FHWA authorization:

- ▶ Emergency Repair
 - ▶ Preliminary Engineering (PE) and/or Construction Engineering (CE)
 - ▶ As properly documented
- ▶ Emergency (Temporary) roadway repairs

Activities that require prior FHWA authorization:

- ▶ Permanent Repair (PR)
 - ▶ Follows normal Federal-aid procedures
 - ▶ Preliminary and Construction Engineering & ROW
 - ▶ Time Extensions

- ▶ Revised DDIRs (Scope Changes and Cost Increases of 20% or more).

ER Program Deadlines

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- **Emergency Repairs**
 - Cost incurred within 180 days from the day of the event is reimbursable at 100%.
 - Cost incurred after 180 days is reimbursable at the regular pro-rata share.
- **Move to Construction Obligation**
 - All Emergency Relief projects must move to initial authorization within two fiscal years from the fiscal year of the event.
- **DDIR Submittal**
 - All DDIRs must be submitted within 2 years of the day of the event.

ER Program Deadlines

Timeline



EXAMPLE - MATTHEW:



EXAMPLE - IRMA:



Debris Changes due to MAP-21

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Some debris removal is now eligible for FEMA funding in lieu of FHWA-ER funding

- ▶ Eligible sites on Federal-aid highways...
 - ▶ Governor's declaration/No Presidential Declaration-ER eligible
 - ▶ Presidential Declaration/Debris eligible under Stafford Act- Not ER eligible
 - ▶ Presidential Declaration/Debris not eligible under Stafford Act- ER eligible

Debris Changes due to MAP-21

Debris Eligibility	Governor's Declaration	Presidential Declaration
FEMA		<p>X (debris eligible under Stafford Act)</p> <p><i>*If debris are not covered under the Stafford Act, then it could be FHWA eligible.</i></p> <p><i>*Counties not included in the Presidential Declaration but are included in the Governor's Declaration might be eligible for ER funds.</i></p>
FHWA	X	

Debris Removal

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First Pass and First Push

Debris Collection Definitions

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First Push

- ▶ Initial effort to clear roadway includes cut & toss operations to push debris out of traveled way.

First Pass

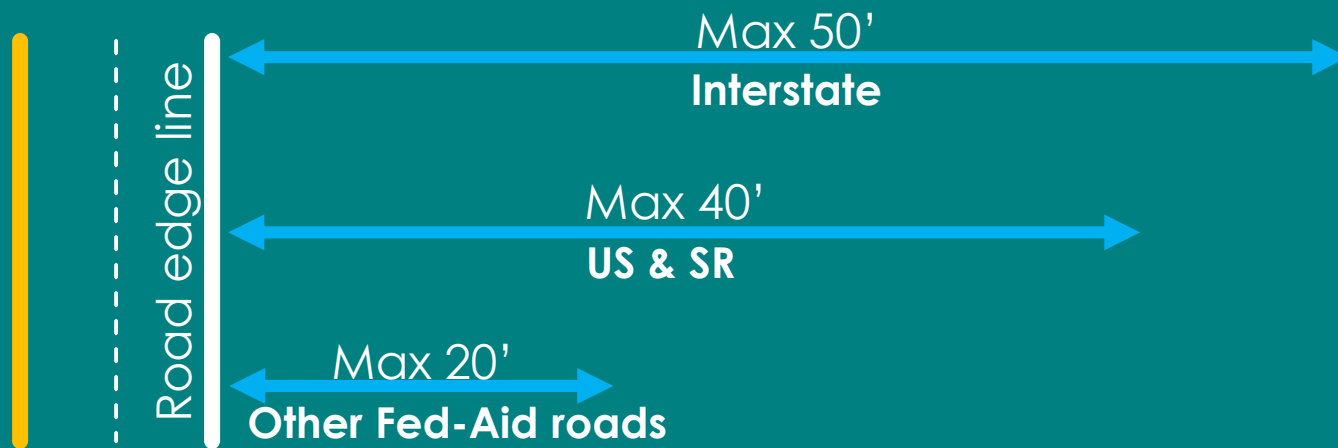
- ▶ Initial effort to collect debris pushed aside during first push operations.
- ▶ All debris (vegetative & non-vegetative) must be collected at the same time as first pass operation must be within debris clearing limits.

Debris Clearing Limits

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- Traveled Way
- Clear Zone
- Additional Limits:

The lesser of ROW limits vs.



Debris Removal Activities

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Debris Removal reimbursement for:

- ▶ Initial pickup
- ▶ Hauling

Ineligible Activities:

- ▶ Excessively long hauls
- ▶ Secondary hauling

Adequate Documentation

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▶ Debris Removal

- ▶ Load tickets - first pass, date, quantity, and location.
- ▶ Summary sheet of all load ticket data.
- ▶ Invoices - monitoring, reduction, disposal, etc.
- ▶ Keep FHWA eligible debris and associated costs separate from FEMA debris until reduction operations.
- ▶ Photos of debris operation – before and during debris removal.
- ▶ If by Force Account: need labor, equipment, materials documentation.

Need a Debris Staging Area?

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USE CAUTION!!!

- ▶ Locate potential sites prior to storms
 - ▶ Have backup sites available
- ▶ Coordinate with agencies for NEPA...
 - ▶ to avoid environmental delays
 - ▶ to avoid Endangered Species and Habitats



New
Detailed Damage
Inspection Form
(DDIR)



U.S. Department
of Transportation
Federal Highway
Administration

DETAILED DAMAGE INSPECTION REPORT (DDIR)

Title 23 Emergency Relief Program

FHWA Disaster Number

Disaster Date

Site Location (Name of road, milepost, coordinates, distance from nearest intersection, etc.)

Report Number

Inspection Date

Description of Damage (Provide specific details - Bituminous shoulder undermined, slope failure, washed out culvert, etc.)

Federal-aid Route Number

State/County/City

Congressional District

Verify the following for DDIR approval consideration.

- Map of damaged site included (if adjoining locations are combined to one site, all locations must be shown)
- Photos of the damaged site included
- Is the damaged site on an eligible federal-aid highway? (not functionally classified as a local or rural minor collector)

*NEPA is required for all emergency and permanent repair projects.

*All construction projects shall comply with federal requirements (FHWA 1273, Davis Bacon, etc.).

SECTION 1: EMERGENCY REPAIRS COST ESTIMATE

Emergency Repairs	Work Items	Unit	Unit Price	Quantity	Cost	

Contracting Method <input type="checkbox"/> Force Account <input type="checkbox"/> Standard Competitively Bid Contract <input type="checkbox"/> Negotiated Contract <input type="checkbox"/> Other (state type of contracting method) <input type="checkbox"/> Solicited Contract	Preliminary Engineering (PE)	
	Construction Engineering (CE)	
	Right-of-Way	
	Emergency Repairs Total	
Contracting Agency <input type="checkbox"/> STA <input type="checkbox"/> LPA <input type="checkbox"/> Tribe		



U.S. Department
of Transportation
Federal Highway
Administration

DETAILED DAMAGE INSPECTION REPORT (DDIR)

Title 23 Emergency Relief Program

FHWA Disaster Number

Report Number

SECTION 2: PERMANENT REPAIRS COST ESTIMATE

Permanent Repairs	Work Items	Unit	Unit Price	Quantity	Cost
Contracting Method		Preliminary Engineering (PE)			
<input type="checkbox"/> Standard Competitively Bid Contract		Construction Engineering (CE)			
<input type="checkbox"/> Other (Prior FHWA approval is required)		Right-of-Way			
Contracting Agency		Permanent Repairs Total			
<input type="checkbox"/> STA <input type="checkbox"/> LPA <input type="checkbox"/> Tribe					

Estimated Total Repairs Cost

1. Were *permanent* repairs performed concurrently with emergency repairs? If yes, please explain how it was determined to be more economical per 23 CFR 668.109(a)(2) (Prior FHWA authorization is required).
2. Were permanent repairs performed under a pre-event contract? (If yes, provide contract #)

Signature for Local Agency Site Recommendation	Date	Signature State DOT Site Recommendation	Date
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DDIR approval does not constitute a funding authorization. An ER application must be approved by the FHWA Division Administrator before funds can be authorized (23 CFR § 668.111(c)).

FOR FHWA ONLY

Site Eligible Yes No

Signature for DDIR Approval	Date	Comments
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DDIR Form

- ▶ What it IS:
 - ▶ In most cases, one is written per site
 - ▶ It is a preliminary cost ESTIMATE
 - ▶ It is a determination of Eligibility
 - ▶ It is a brief description of the scope of work
 - ▶ It is used to support our request to HQ for Emergency Relief funding

DDIR Form

- ▶ What it is NOT:
 - ▶ It is not a Contracting Mechanism
 - ▶ Is never to be used to indicate actual scope, quantities, or prices to the contractor
 - ▶ It is not a NEPA determination or approval
 - ▶ It is not authorization to begin Permanent Restoration work

Information Included in the DDIR

- Specific Location (Beginning and Ending Limits, federal-aid route number)
- Nature and Extent of Damage
- State/County
- Congressional District
- Emergency Repair (ER)
- Permanent Restoration (PR)
- Eligible FHWA Road
- Date of the Event
- Disaster #
- DDIR #

Information Included in the DDIR

- Cost and quantity estimates
- Type of contracting method used
- State and Local Agency recommendation
- FHWA Concurrence

Example of DDIR Backup Documentation

- Cost Summaries or Spreadsheet – not lump sum
- Photographs of the **damaged** site
- Bridge inspection report (if applicable)
- Copy of the contract (**If work already started**)
- Functional Classification Map showing site location on FHWA ER road

Phases of the DDIR

- ▶ Two Phases
 1. Initial DDIR
 - ▶ Used to establish estimates and eligibility
 - ▶ Major items of work required
 2. Revised DDIR
 - ▶ Costs increase 20% or a change in scope
 - ▶ Justification of the changes
 - ▶ Upon receipt of adequate backup
 - ▶ FHWA DDIR approval

National Environmental Policy Act (NEPA)

- All Projects require a NEPA review
- Particularly important if impacts to protected or sensitive resources are possible
- Advance coordination with appropriate resource management agencies (local, state, federal) will help avoid delays
- ▶ Only FDOT can approve NEPA documents

NEPA Process

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Emergency Relief projects must comply with all NEPA requirements

- ▶ Emergency Repairs: Historically Categorical Exclusion (CE)
- ▶ Permanent Repairs: Historically Categorical Exclusion with exceptions:
 - ▶ Betterments
 - ▶ Bridge Work
 - ▶ Any impacts affecting resources

Required Certifications

- ▶ Emergency Repairs and Permanent Repairs required the following Certifications:
 - Utility Certification
 - Right of Way Certification
 - Railroad Certification
 - Environmental Certification

For Emergency Repairs:

- ▶ Certification can be completed **during** project construction

For Permanent Repairs:

- ▶ Certification are required **prior** initial authorization

Betterments

- Improvement to Facility
- Feature not existing prior to the disaster
- ▶ Justification:
 - ▶ Prevents future eligible damage
 - ▶ Cost/Benefit Analysis
 - ▶ Meet current standards
- ▶ FHWA prior approval required. Except for betterments to meet current standards (current standard must be provided as part of the DDIR back up documentation).

Damage Outside the ROW

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- ▶ In general, ineligible for Emergency Relief Funding
- ▶ Must meet all four criteria to be considered for eligibility:
 - ▶ Directly related to protection of highway
 - ▶ Not eligible for funds from another agency
 - ▶ No other agency has responsibility
 - ▶ Applicant agrees to accept future maintenance

Contract Requirements

Contract Requirements

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- ▶ All Fed-Aid rules apply (ER & PR)
 - ▶ FHWA 1273
 - ▶ Approved Contracting Methods (see ER manual)
 - ▶ Davis-Bacon Labor Rates (exceptions may apply)
 - ▶ Disadvantaged Business Enterprises (DBE)
 - ▶ Americans with Disabilities Act (ADA)
 - ▶ Buy America (Steel & Iron)
 - ▶ NO convict labor

Contracting Methods

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- ▶ Emergency Repairs
 - ▶ Competitive bid
 - ▶ Solicited Contracts
 - ▶ Negotiated Contracts
 - ▶ Force Account
 - ▶ Joint Participation Agreements (JPAs)
 - ▶ Reduced advertisement time
 - ▶ Pre-event contracts (normal F.A. req., no exceptions)
- ▶ Permanent Restorations
 - ▶ Typically Competitive Bid Contracts or Design Build
 - ▶ Must follow regular F.A. procurement requirements
 - ▶ Local Agency Program (LAP) Agreements
 - ▶ Local agencies must be LAP Certified to perform permanent repairs

Exceptions: Davis-Bacon Act

- ▶ Davis-Bacon and Related Acts (DBRA)
 - Provisions do not apply to state or local government agency employee in-house 'force account' work
 - Provisions do not apply where the only work in the contract is debris removal
 - Provisions DO apply if debris removal is performed in conjunction with any construction, alteration, or repair work.

EXAMPLES OF DAMAGES

Little Mud Creek

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I-75 Cantilever Signs

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Emergency Repair

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Emergency Repair

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- ▶ Minimizes damage
- ▶ Protects facility from further damage



Is this work eligible?

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- No. Work by Convict Labor is not eligible



Eligible Debris?



No. Roadway not impacted.

No!
It's Heavy
Maintenance!



Emergency & Permanent Repairs



ER Not Limited to Hurricanes \$7



QUESTIONS?