

GUIDELINES FOR FDOT PERSONNEL WORKING WITH FEMA AND FHWA IN AREAS COVERED BY ASSET MANAGEMENT CONTRACTS

FDOT intends to pursue FEMA and FHWA qualifying reimbursement to the greatest extent possible. A position statement on the assignment of risk and reimbursement for incidents and natural disasters in areas covered by Asset Management (AM) Contracts was issued on May 20, 2004. These guidelines are intended to supplement the position statement, and provide practical guidance to FDOT personnel working with FEMA and FHWA representatives, in areas covered by Asset Management Contracts.

In order for FDOT to receive qualifying reimbursement for emergency repairs, FDOT must maintain the responsibility for verifying both the eligibility and reasonableness of all determinations and cost estimates.

The AM contractor may immediately begin work to remove debris, and assess roadway damage immediately following an event. The AM contractor can identify sites which he feels are eligible. The AM contractor with FDOT oversight is permitted to proceed with the emergency repair that meets the ER emergency criteria, (that is: to restore essential traffic, minimize extent of damage, and protect remaining facilities) before FHWA performs the site visit and writes up the Detailed Damage Inspection Report (DDIR). As soon as possible after the hurricane or other event the FHWA will inspect the damage, make a reimbursement eligibility determination, and complete the Damage Inspection Form. The AM contractor may perform emergency repairs that are eligible for Federal-aid, but FDOT and FHWA and/or FEMA are still responsible for all eligibility and cost reasonableness determinations.

The AM contractor is responsible for generating and retaining the necessary documentation for all FEMA and/or FHWA qualifying reimbursements. The Department will assist in the reimbursement effort by processing documentation provided by the contractor, and submitting documentation provided by the contractor to FEMA and/or FHWA, as a part of the FDOT reimbursement package.

REPAIR OPTIONS

FDOT teams will assess damage and develop repair plans by working with FEMA and/or FHWA personnel in the field. It is crucial that FDOT personnel recognize when a field review reveals damage within an area covered by an AM contract. When damage is found within an area covered by an AM contract, the following options for repair should be pursued with the FEMA and/or FHWA team, in consecutive order. A combination of solutions may be used.

Immediate Response and Recovery

1. Force Account Work: FDOT representative should request approval from FEMA and/or FHWA to rely on the AM contractor to perform the repair work using a force account. Force account records must include labor rates, equipment, and materials invoices. When force account resources are used, the FDOT Standard Specifications for Road and Bridge Construction 2004 Section 4-3.2 (a, b and c) allows the contractor to include payment for direct labor and burden on the actual costs of the work, plus a mark-up of 25%. For materials and supplies, the Contractor may include the actual cost of such materials and supplies incorporated into the work, including transportation charges, plus 17.5%. For any machinery or special equipment, other than small tools, the Contractor may claim 100% of the "Rental Rate Blue Book" for the time that such equipment is used. These invoices must be verified by FDOT.

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2. When the resource requirements exceed those available within the AM organization, supplemental contract resources can be obtained by the AM contractor using one of two approved methods: When FDOT authorizes the Asset Manager to proceed with immediate response and recovery work, and the resource requirements exceed those available within the AM organization, the AM contractor may obtain supplemental resources using either the solicited contract or negotiated contract approach. When these supplemental contract resources are used, the FDOT Standard Specifications for Road and Bridge Construction 2004 Section 4-3.2 (d) allows the contractor a markup per subcontract of 10% on the first \$50,000, and a markup per subcontract of 5% on any amount over \$50,000 on any subcontract directly related to the additional or unforeseen work. This contractor markup is the AM contractor's compensation for preliminary engineering, construction engineering inspection, and any other AM contractor efforts arranging for the work, or expended in ensuring that the work is completed properly. There will be no force account compensation for obtaining supplemental contract resources.

- a. Solicited Contract Approach: AM contractor contacts a minimum of three subcontractors and accepts the lowest bid to perform the work. The bids should be based on lump sum, pay item quantities, or based on equipment rental, labor and materials cost. FDOT will review and verify that the costs are reasonable.
- b. Negotiated Contracts Approach: AM contractor contacts subcontractors and negotiates a price to perform the work, when the event is imminent, or immediately following the event. FDOT reviews the negotiated prices and determines reasonableness given the emergency conditions.

3. If the FHWA and/or FEMA do not agree to reimburse qualifying work performed using an AM contract for immediate response and recovery operations, FDOT will assume responsibility for procurement of the work. If the AM contractor chooses to submit a bid to complete the work, the FDOT will consider it.

Permanent Repairs

Typically, FDOT will assume control of significant permanent repairs. The work will be bid and administered by FDOT. If the AM contractor chooses to submit a bid to complete the work, the FDOT will consider it.

Exceptions to this process may allow the AM contract to be used. Exceptions may be considered on a case-by-case basis, based on information supplied by the State supporting the determination that another method is more cost effective, and/or another method results in a more timely response.

ROLE OF FDOT

FDOT will work directly with FHWA and FEMA, and will be directly responsible for coordination with the AM contractor. FDOT will establish a process to verify that there has been no duplicate assistance for the disaster at hand.

In order to assist the Districts in dealing with damage assessment and emergency repair issues that may arise, the State Maintenance Office has designated an Asset Management Response (AMR) coordinator. The Districts may contact the coordinator should questions arise while implementing these guidelines. In addition, the Districts are requested to notify the AMR coordinator by email immediately in each case where

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FHWA and/or FEMA have refused to approve the use of the AM contract in performing emergency repair and permanent repairs. The primary coordinator for AMR issues is Dale Cook, (MT954CD). Sharon Holmes, (MT954SH) will serve as backup coordinator on these issues.

FDOT is very interested in working with FEMA and FHWA to continue, and possibly improve, the emergency response process by taking advantage of the efficiencies, and timeliness of using the Asset Management contract. However, if at the time of a qualifying event a determination is made that FEMA and/or FHWA will not provide reimbursement traditionally provided to the Department, due to the terms of the Asset Management contract, the Department will exercise its right under the AM contract terms to assume responsibility for emergency response work associated with the natural disaster. This would not preclude the Department from contracting with the Asset Management contractor or any other qualifying contractor to perform the work under the direct control of FDOT.