

**From:** [Nordholm, Gail \[DOT\]](#)  
**To:** [Nordholm, Gail \[DOT\]](#)  
**Subject:** Emergency Repair Contract Provisions for Emergency Relief Program Projects  
**Date:** Wednesday, November 03, 2010 3:09:00 PM

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**TO:** County Engineers, City Representatives, and Consultants

**CC:** District Local Systems Engineers, Service Bureau,  
Office of Local Systems, Bonnie Castillo, Statewide  
Emergency Operations, Roger Bierbaum, Office of  
Contracts, Max Grogg and Tom Parham, FHWA

**FROM:** Office of Local Systems

**SUBJECT:** Emergency Repair Contract Provisions for Emergency Relief Program  
Projects

**DATE:** November 3, 2010

In response to this summer's flooding and the resulting approval of two disaster events under the Federal Highway Administration (FHWA) Emergency Relief (ER) program, many cities and counties have been or are now in the process of repairing the damage caused by these events.

The purpose of this memo is to better inform local agencies of the contract requirements for emergency repairs. As described in [FHWA's ER Manual](#), emergency repairs are those completed immediately following the disaster and are necessary to restore essential traffic, minimize the extent of the damage, or protect the remaining facilities. Permanent repairs are other repairs necessary to restore the facilities to pre-disaster conditions.

Construction contracts for permanent repairs must be acquired by means of a competitive bidding process. The Iowa DOT has chosen to ensure compliance with this requirement by requiring all ER projects for permanent repairs to be let through the Iowa DOT.

For emergency repairs, a local agency may elect to perform the work

with its own forces or by contract. The contract may be acquired by conducting a publicly advertised local letting, soliciting bids from selected contractors, or by negotiating a sole-source contract. Use of publicly advertised competitive bids is encouraged but not required for emergency repairs.

However, regardless of how an emergency repair contract is acquired, there are certain contract provisions that must be incorporated into the contract in order to meet all the applicable Federal requirements. To ensure that all the applicable requirements are included, local agencies should use the Bidding Proposal for Locally Let Federal-aid Contracts (Form 740384) when advertising or soliciting bids. This form is available in either [Word](#) or [PDF](#) format. The bid documents must also reference the Iowa DOT [Proposal Notice for Locally Procured Federal-aid Contracts](#) (Proposal Notice) and [Form FHWA-1273](#), Required Contract Provisions for Federal-aid Construction Contracts, as requirements of the bid.

The Iowa DOT does not require the use of a certain form of contract for locally-let emergency repair contracts, so the local agency may use the form of contract it normally uses for its other locally let contracts. However, whatever form of contract is used, the contract must reference and **physically attach** the Proposal Notice and the Form FHWA-1273. Using both the Proposal Notice and the FHWA-1273 will result in some duplication, but is necessary to ensure all the required provisions are included.

Please note that even though Form 740384 and the Iowa DOT Proposal Notice were originally developed only for use with the small Federal program local letting procedures outlined in [I.M. 3.720](#), these documents will also be acceptable for use with locally-procured emergency repair contracts.

Finally, for locally-procured emergency repair contracts, the local agency will be responsible for ensuring that they do not award a contract to a contractor that is either suspended or debarred (see Section XI of Form FHWA-1273). A list of contractors which are currently suspended or debarred are available at: <https://www.epls.gov/>. To document compliance with this requirement, write a memo to the file that this was checked and the low bidder is not currently listed as being suspended or debarred.

In summary, if you plan to complete any emergency repair work by contract, please work closely with you District Local Systems Engineer to ensure that the bid and contract documents are sufficient. If you have any questions, please contact your District Local Systems Engineer first.

Thanks,

M.J. "Charlie" Purcell  
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Iowa Department of Transportation  
515-239-1532 [charlie.purcell@dot.iowa.gov](mailto:charlie.purcell@dot.iowa.gov)

Some of the documents referenced above are in Adobe Acrobat's Portable Document Format (PDF). If you do not have the Adobe Acrobat Reader software, you can download it free of charge at:

<http://www.adobe.com/products/acrobat/readstep.html>.

Mailings are available at the Local Systems Weekly Mailing web address

[http://www.iowadot.gov/local\\_systems/mailing/main\\_mailing.htm](http://www.iowadot.gov/local_systems/mailing/main_mailing.htm)