

Emergency Projects in the Highway Construction Program

If the proposed work activity is not considered ordinary maintenance as defined previously, the work may be accomplished by state forces only to the extent permitted in [RCW 47.28.030](#) and [47.28.035](#). This rule applies whether the work involves an emergency or not.

This work typically requires the use of preliminary engineering services, personnel, and contract plans specifications and estimates. When the work is not programmed, it follows the department's unprogrammed project process.

Definition of Construction Type Activities

1. **Alteration** – Work that results in a substantial change in the form or nature of an existing highway facility/element without destroying its identity.

Examples include:

- Realignment of the roadway.
- Widening the roadway.
- Raising the grade.
- Replace signal span wire with mast arms.

2. **Repair** – Work required to restore the intended functionality of a highway facility/element when damage results in a substantial loss of the intended design functionality.

Examples include:

- Major slide (may require soils analysis and walls).
- Repair of large culverts.
- Replacement of major sections of riprap.
- Roadway paving.
- Replacement of bridges, bridge approaches, or bridge piers.
- Work needed to repair a section of washed out road that is not passable.

3. **Improvements** – Work that results in the enhanced, expanded, or improved functionality of a highway facility/element over that of the original design. This work includes new roadway elements and improves the original function and design.

Examples include:

- Culvert replacement to improve drainage.
- Constructing all weather highway.
- Constructing left turn lane or climbing lane.
- Hydraulic enhancements.
- Correction of unstable slopes through the use of horizontal drains, new wall, or other methods.

Funding for Construction Work

Emergency work considered to be “alteration, repair, or improvement” when properly approved, is eligible for federal reimbursement, either from normal highway construction funds or emergency relief funds. Work is initially funded out of the Highway Construction Program with state funds and later transferred to federal appropriation for reimbursement through the ER federal project. Appropriate work order numbers are established to ensure the department can properly account for and document expenditures (see Maintenance Work Order Process Section).

Limitations on State Force Forces Accomplishing Construction Work

If the work involves “alteration, repair, or improvement” as defined above, the statutory requirements set forth in [RCW 47.28.030](#) and [47.28.035](#) apply as follows:

- The work may be done by state forces when the estimated cost of the work is less than \$60,000 in non-emergency conditions.
- When delay of the work would jeopardize a state highway or constitute a danger to the traveling public, the work may be done by state forces as long as the estimated cost of the work is less than \$100,000.
- If the estimated cost of a project is more than the \$60,000/\$100,000 limitations, state forces may still be used to perform work up to those limits. The cost of the remaining project work over the \$60,000/\$100,000 limits would have to be contracted out by competitive bidding. The only exception is where the department finds it necessary to protect a highway facility from imminent danger or to perform emergency work to reopen a highway. When that occurs, the department may contract for such work on a negotiated basis not to exceed force account rates for a period not to exceed 30 working days.
 - Thirty (30) working days does not count weekends, weather delays, holidays, or other expected days of down time.

[RCW 47.28.035](#) sets out two rules that must be followed in estimating the cost of using state forces.

- First, the costs must include the aggregate of all amounts to be paid for labor, material, and equipment (see below).
- Second, the aggregate costs are those costs that will be incurred on one continuous or interrelated project where work is to be performed simultaneously.

Note: To better understand this second requirement, one must go beyond the actual statutory language and the difficulty of defining the key term “project” and focus on the objective of the statute. Its purpose is to ensure that a project is not artificially divided into smaller projects for the sole purposes of using state forces instead of contracting out the work. This will be discussed in more detail in the Project Definition Section.

The estimate must be reasonable based on the best information known at the time it was made. To support the reasonableness of the estimate, written documentation on how it was ascertained is necessary ([RCW 47.28.030](#)). The purpose of the dollar limitation is to ensure that private contractors provide the majority of non-maintenance emergency work. Therefore the estimate should be reasonable in view of the facts that are known at the time and consistent with the purpose of the limitation. Any questions on what should be included in the estimate should be directed to the department so that the estimates are consistent.

The following examples are provided to help understand how the estimate should be made. To be included:

1. **Labor Costs** – Included when state personnel are being used on the project to do the following:
 - a. Operate equipment.
 - b. Place material.
 - c. Any activity done on the site that would have been done by the contractor’s labor force if the work had been contracted out.
2. **Material Costs** – If state forces are being used to perform the project or a portion of it, the cost of the materials supplied by the state would be included in determining the dollar limitation.
3. **Equipment Costs** – If state forces are being used to perform the project or a portion of it, any equipment provided by the state would be included in estimating the dollar limitation.

Not to be included:

1. **Labor Costs** – Do not include preliminary engineering (PE) costs and construction engineering costs. These costs are incurred on all projects whether performed by contractors or by state forces and therefore are to be excluded in the labor estimate.
2. **Material Costs** – If the state only supplies the materials to the project, the cost of the materials are not to be included. For example, if the state supplied traffic signal equipment for a signal construction project but state labor forces were not used to perform any portion of the project, the cost of the materials would not be included. Conversely if state forces are to be used to do work on the project, the cost of the materials provided by the state would be included.

Also, consumable items not incorporated in the project such as traffic control devices, signals, etc., are not to be included in the material cost estimate.

3. **Equipment Costs** – If the state provides equipment to the project but state labor forces are not to be used to perform any work on the project, the equipment costs will not be included.
4. **Overhead Costs** – [RCW 47.28.035](#) refers only to the aggregate of all amounts to be paid for labor, material, and equipment. Therefore state overhead costs do not have to be included in estimating the costs using state forces.