



CDA 2024-09
Shelly Fire
Applicants' Briefing



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Authorities

- California Government Code, Chapter 7.5 Disaster Assistance Act
- California Code of Regulations, Title 19, Division 2, Chapter 6 California Disaster Assistance Act





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Request for State Assistance

Gubernatorial Authorization

- Issued by the Governor
- Emergency work and permanent work are eligible
- Cost share is 75% state and 25% local






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Shelly Fire
(CDAAs 2024-09)

Incident Period:
July 3, 2024, through August 6, 2024

Declared Counties:
Siskiyou


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Governor's Proclamations of a State Of Emergency (SOE)


Date SOE Proclaimed	Counties listed on SOE	Link to SOE on www.Gov.ca.gov
November 1, 2024	Siskiyou	11.01.24 Fire SOE

Search Proclamations on the Governor's Office website
<https://www.gov.ca.gov/category/proclamations/>




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State Of Emergency (SOE) Termination



- **Applicants Must:**
 - Review the provisions and orders on the related SOEs
 - Determine **which provisions** are being used by their jurisdiction and **how long** they will need them for
 - Notify Cal OES what they determined
- Termination of SOEs will not jeopardize funding for approved Public Assistance projects



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CDAА Overview
(Governor's Proclamation)

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CDAА Application Process

- Applications due by **January 10, 2025**
- Can be turned in today, via e-mail to DisasterRecovery@caloes.ca.gov, or via USPS to:

Robert Larsen, Public Assistance Officer
CA Governor's Office of Emergency Services
3650 Schriever Avenue
Mather, CA 95655
ATTN: CDAА-2024-09




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CDAА Application Process
(continued)

Required Forms:

- Project Application Form (OES-PA-126)
- List of Projects (LOP) Form (OES-PA-95)
- Designation of Authorized Agent Form (OES-FPD-130)


*For questions, contact Financial Processing Division (FPD) at: RecoveryPayments@caloes.ca.gov



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Applicant Eligibility



- Cities
- Counties
- County Offices of Education
- Community College Districts
- School Districts
- Special Districts
- Certain private non-profit organizations may be reimbursed for essential community service activities, if requested by a State or local government
- State agencies and Tribal Governments are not eligible




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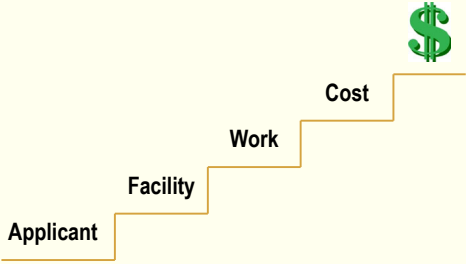

CDAA Funding

The State shall make no allocation for any project application resulting in a State-share of less than two thousand five-hundred dollars (\$2,500), in accordance with Title 19 section 2970(e).

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Steps to Determining Eligibility






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Project Formulation

After forms are received by Cal OES:

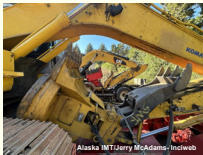

- Kick-off Meeting (provide LOP prior to/during this meeting)
- On-Site Review of Project(s)
- Project Formulation

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Eligible Facility Criteria

- Buildings, systems, equipment, maintained natural features
- Legal responsibility of an eligible applicant
- Located in a designated disaster area
- In active use at the time of the disaster

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Categories/Types of Work

- A – Debris Removal
- B – Emergency Work
- C – Roads and Bridges
- D – Water Control Facilities
- E – Buildings and Equipment
- F – Utilities
- G – Parks, Recreational, and Other



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Category A – Debris Removal

- Must:
 - eliminate threat to public health and safety
 - eliminate threat of significant damage to improved property
- Includes:
 - tree clearance
 - vegetative debris
 - building wreckage
 - mud/silt on public property (roads, natural streams, public rights-of-way)

*Force Account Labor – Overtime Only



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Category A – Debris Removal Private Property Debris Removal

Debris Removal from Private Property shall be reimbursed only when an immediate threat to public health and safety exists and when authorized by the Director of Cal OES.

The Property Owner must:

- Remove all disaster-related debris from the property to the curb or public right-of-way
- Certify no insurance to cover debris removal
- Sign a statement giving the local agency the right of entry and absolving the local agency and the state of any liability relative to removal



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Damage Caused During Performance of Emergency Work

Typical recommendations for documentation of road damage:

- Pre-Disaster
 - Maintenance Records or Plans
 - Photos or other documentation of road condition
- Post-Disaster, but prior to recovery work (like debris removal)
 - Photos or video of proposed haul routes or heavily traversed routes
 - Other documents to establish condition of roads (Remaining useful life of the roadway, or the like)
- Post-Disaster, after recovery work has been completed
 - Photos or video showing specific damage or road degradation sites
 - Other documents to establish the current condition of the road
 - Estimated costs and methods of repair




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Category B – Emergency Work

- Includes:
 - Emergency protective measures
 - Mutual aid
 - Wide range of extraordinary measures, such as:
 - Evacuations
 - Sheltering
 - Sandbagging
 - Barricading
 - Bracing or shoring structures
 - Traffic control
 - Local Assistance Center
 - Emergency Operations Center

*Force Account Labor – Overtime Only




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Donated Resources
(Categories A and B Only)

Unpaid services and resources provided to a local agency. The valuation will be calculated as:



- Volunteer labor valued at rates for similar work in applicant's organization or in same labor market
- Donated equipment/space at its fair rental rate
- Materials at fair market value at time of donation



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Category C – Roads & Bridges

- On-system (FHWA) roads may be ineligible
- Must conform with current codes
- Excludes routine maintenance

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Category D – Water Control Facilities

- Channels, canals, levees, and basins
- Restrictions on Flood Control Works
- Excludes USACE
- Excludes NRCS




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Category E – Buildings & Equipment

Includes:




- Structures
- Content and equipment
- Codes and standards




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Category F – Utilities

- Water treatment
- Power generation
- Communications
- Sewage treatment

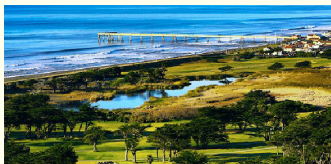




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Category G – Parks, Rec & Other

Must fall within the definition of an “*improved and maintained*” facility

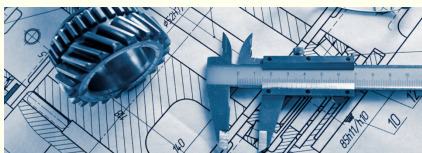
- Docks and Harbors
- Public parks
- Golf courses
- Beaches
- Piers
- Airports
- Landfills



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Engineering

- Necessary to complete eligible work for construction projects
- Generally permanent work only
- Reimbursement is based on reasonable actual costs



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Codes and Standards

- Apply to the type of repair work
- Be appropriate to pre-disaster use
- Be formally adopted prior to the disaster



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Replacement or Relocation

- Subject to Director's approval
- Relocation when restoration at original location not feasible
- Betterments, increased capacity, or acquisition cost of land borne by Applicant
- Pre-disaster design and function
- Codes, standards, and specifications



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Trees, Shrubs, and/or Vegetation

- Generally, not eligible unless for engineered purpose:
 - Erosion control
 - Slope stabilization
 - Wind barriers
- Eligibility limited to minimum level necessary



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Hazard Mitigation

- Cost effective
- Substantially reduce risk of repetitive and/or future damage
- Show cause if mitigation measures not considered



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Title 19 Mitigation



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CDAА Title 19 Hazard Mitigation


- Title 19 Hazard Mitigation eligibility requirements:
 - Only Category C-G permanent projects are eligible for Title 19 Hazard Mitigation measures.
 - Title 19 mitigation measures are restricted to damaged infrastructure impacted by the disaster event and in conjunction with permanent work projects.
 - No state hazard mitigation funding shall be applied to any emergency protective measure.



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CDAА Title 19 Hazard Mitigation


- Title 19: Public Safety
 - Documents the requirements for, and the benefits of, the CDAА program, including the utilization of hazard mitigation funding to harden infrastructure impacted by a natural hazard during the Public Assistance process.
 - Hazard mitigation funding is documented in Title 19 Section 2965(c). Other Eligible Work.



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CDAA Title 19 - Hazard Mitigation


1. Eligible mitigation measures must be cost effective over the projected life of the facility for a specific facility hazard mitigation project, and substantially reduce the risk of repetitive and/or future damage, hardship, loss, or suffering resulting from a disaster or emergency.
2. Applicants with facilities subject to repetitive damage must show cause when hazard mitigation measures are not considered when repairing new disaster damage.
3. Applicants with facilities in high hazard zones... should examine hazard mitigation project possibilities when disaster repairs to these facilities are being considered.



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CDAA Title 19 - Hazard Mitigation

4. Cost effective measures are those that will not cost more than the anticipated value of the reduction in both direct damages and subsequent indirect negative impacts to the area if future disasters or emergencies occur.
 - i. Mitigation projects costing less than fifteen percent (15%) of the approved project repair, restoration, or replacement costs shall be considered cost effective.
 - ii. Mitigation projects above fifteen percent (15%) of the approved project cost may be considered cost effective if an acceptable benefit-cost analysis (BCA) has been performed.





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CDAA Title 19 Mitigation Examples

Example 1

- Harden and expand an engineered and maintained culvert damaged by the disaster event into a larger structure. Extend the culvert discharge beyond the toe of embankment to mitigate erosion and scour.





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CDAА Hazard Mitigation Examples


Example 2

- Install a new debris barrier or grate during the repair of a disaster impacted culvert to prevent possible debris flow blockage.



Example 3

- Strengthen windows damaged by a disaster event by replacing glass with tempered glass for heat/fire resistance.




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CDAА Hazard Mitigation Examples


Example 4

- Replace disaster impacted wood guardrail posts with steel.




Example 5

- Replace disaster damaged composition roofing with metal and, install cement fiber siding over, or instead of, disaster damaged wood siding on a structure impacted by a disaster event.



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CDAА Eligibility Information

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Statutory Timeline

TYPES OF WORK	TIME FROM GOVERNOR'S STATE OF EMERGENCY PROCLAMATION
Emergency Work	6 Months
Permanent Work	18 Months




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Time Extensions for Extenuating Circumstances

Time Extension Request Checklist:

- Damage Survey Report (DSR) Number
- Category of Work
- Status or progress on permitting for project
- Anticipated completion date
- Percentage of work completed
- Construction schedule (if a version request or environmental permitting is pending, how long would it take to complete the project assuming the desired scope of work is approved, and the permitting is complete)
- Reason for the delay
- Dates of previous time extensions



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Eligible Costs

- Reasonable and necessary
- Comply with standards of procurement
- Exclude credits
 - Insurance recoveries
 - Litigation recoveries
 - Other funding sources






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Eligible Costs (continued)

- Donated Resources
(Categories A and B Only)
- Labor (Force Account)
Categories A - B - Overtime only
Categories C - G - Regular and Overtime
- Equipment
- Rental Equipment
- Materials
- Contract
- Engineering and Design Services






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Ineligible Costs


- Expenditures for:
 - Personal property
 - Normal or deferred maintenance
 - Betterment beyond current codes and standards or approved mitigation projects
 - Damages caused by negligence
 - Loss of revenue or income
 - Losses with legal means of recoupment
 - Legal services, fees, penalties, settlements
 - Rights-of-way, easements, land acquisition
 - Non-compliance with local, state, and federal environmental laws and regulations

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Force Account Documentation

- Who
- What
- When
- Where
- How long
- At what rate
(including fringe benefits)

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Cal. Code Regs. Title 19, § 2966

Environmental Compliance State Regulations Compare General provisions for compliance with CEQA and permitting responsibilities:

- (a) Prior to commencing work on a project, other than engineering, design or environmental assessment¹ work necessary to determine the scope of work or funding eligibility, each applicant shall, if required by CEQA, prepare, adopt, certify or file, the appropriate CEQA document(s);
- (b) Prior to commencing work on a project, other than engineering, design or environmental assessment work necessary to determine the scope of work or funding eligibility, each applicant shall be responsible for obtaining the permits, clearances and necessary approvals from tribal, federal, state and local agencies; and,
- (c) Applicants shall maintain adequate documentation that demonstrates their compliance with this Section and, upon request, shall furnish the documentation to Cal OES

¹Engineering and Environmental Assessment work that does not require ground disturbance, or scientific collection, i.e. research and non-intrusive field studies.

Words in Blue are in legislative review.



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State and Federal Environmental and Historic Preservation (EHP) Compliance Laws

"Umbrella" Environmental Laws

- California Environmental Quality Act (CEQA)
 - <https://ceqasubmit.opr.ca.gov/>
 - Jan 1, 2024 - Senate Bill (SB) 69 (Cortese, 2023) must file with County Clerk and Office of Planning and Research
- National Environmental Policy Act (NEPA)
 - <https://www.whitehouse.gov/ceq/>
 - <https://ceq.doe.gov/>

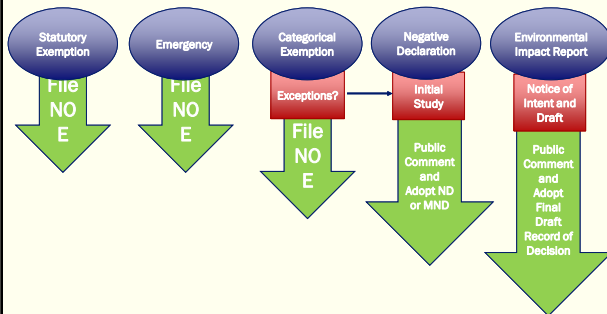


Note: For obligation of Public Assistance Grant funding via CDAA and Stafford Act, documentation of CEQA and NEPA compliance is required.



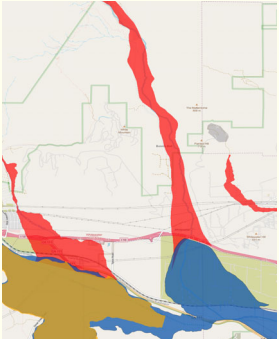
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CEQA




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Floodplains and Wetlands



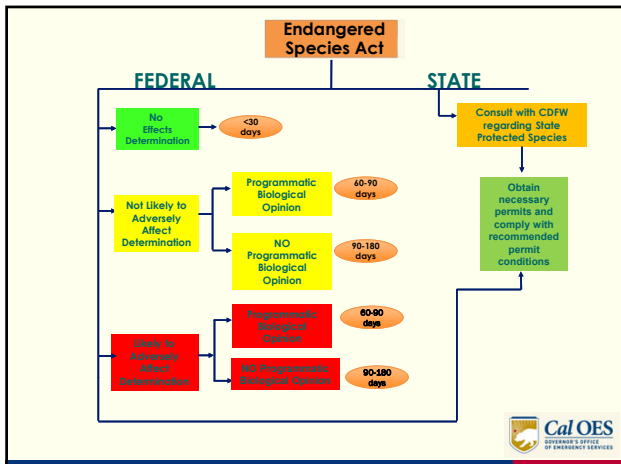
USA Flood Hazard
<https://msc.fema.gov/portal/home>



National Wetland Inventory
https://wspirmarv.wim.usgs.gov/wetlands/apps/wetlands_mapper/



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USFWS and NMFS Jurisdictions

- **Endangered Species Act**
 - Biological Surveys – Desktop/Field (Hire a biologist)
 - Section 7 requires federal agencies to consult with US Fish and Wildlife Service (this can always be informally preempted by the applicant)
 - Migratory Bird Treaty Act
 - Keep in contact US Fish and Wildlife Service and/or National Marine Fisheries Service Directly
 - o Incidental Take Permits
 - o Special Purpose Permits
 - o Programmatic Biological Opinions:
 - ✓ Avoidance and Minimization Measures

• Use IPac <https://ipac.ecosphere.fws.gov/>









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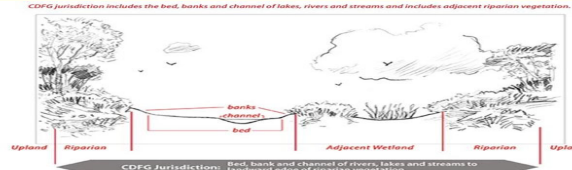
CDFW Jurisdiction

- Fish and Game Code Section 1600
 - 1602 Permanent Projects
 - 1610 Emergency Notification
- CA Endangered Species Act and CA Migratory Bird Protection Act
 - Biological Surveys– Desktop/Field (e.g. CNDD8)
 - Contact CDFW
 - Incidental Take Permits
 - Best Management Practices and Species-Specific Measures



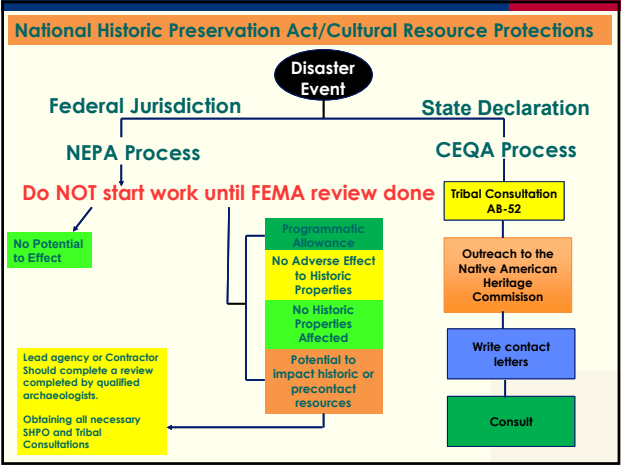
Willow Flycatcher
[scientific name]

CDFW Jurisdiction includes the bed, banks and channel of lakes, rivers, and streams and includes adjacent riparian vegetation.



CDFW Jurisdiction: Bed, bank and channel of rivers, lakes and streams to landward edge of riparian vegetation.

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Cultural Resources

Precontact Resources



Lithic Scatter



Bedrock Mortars

Historic Resources



Tree stump rootball

- Programmatic Allowance?
- Recommend an archaeological assessment





- Over 45 years old?

Root Balls ✪ Cemeteries ✪ Bridges ✪ Culverts ✪ Buildings ✪ Burials ✪ Ground Disturbance

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Example – What Applies?


- Clean Water Act?
- Porter Cologne Act?
- Fish and Game Code?
- Endangered Species?
- National Historic Preservation Act?
- Floodplains or Wetlands?
- Other laws?


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Project Description

- **Site-Specific Plan, which includes:**
 - Address/Location
 - Aerial map,
 - A description of the site, access to it, and damages,
 - Ground Disturbing Activities, Location, Depth and Dimensions
 - A description of pre-disaster uses and impacts,
 - A description of temporary facilities and equipment stored,
 - A description of necessary construction mitigation Best Management Practices
 - Construction Dates
 - Land Ownership
 - Lead NEPA and CEQA agency
 - National Pollution Discharge Elimination coverage, if applicable
- Encroachment/Use Permit
 - CalTrans, County or Municipal
- Site assessment by a qualified biologist for Endangered Species Act and California Endangered Species Act
- Site assessment by a qualified Archaeologist for National Historic Preservation Act, or general cultural/tribal resource protections (AB52, CalFire, etc.)
- Section 404 and 401 of the Clean Water Act permit, Fish and Game Code Section 1600 Lake and Streambed Alteration Agreement, compliance with Executive Order 11990 Protection of Wetlands, and Executive Order 11988 - Floodplain Management
- Documentation that the site is not on the Hazardous Waste and Substances sites




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Important Points

1. **Identify and contact the responsible state and federal resource agencies** before work can begin;
2. **Only when EHP process is complete with those agencies and documented,** can project activities or construction begin without putting obligation of funding at risk;
3. **Sub-Applicants and Sub-Recipients are responsible** for all EHP compliance requirements;
4. **All applicable environmental laws must be addressed** in the EHP process **even if** a Statutory or a Categorical CEQA Exemption, or, a Statutory or Categorical NEPA Exclusion (e.g., STATEX or CATEX) is obtained;
5. **A change in a project scope will require the process to restart** to address the modification which may delay project start;
6. **Contact CalOES PA, HMGP, and EHP** to help identify appropriate Federal and State Agency Representatives that need to be consulted with on your projects; and
7. **Keep copies** of all correspondence and other documents.




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Questions?

Patricia Nelson, Environmental Officer, 916-823-1945 patricia.nelson@caloes.ca.gov	Melissa Ronan, Environmental Scientist 916-834-6493 melissa.ronan@caloes.ca.gov
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recoveryehp@caloes.ca.gov


- Technical Resources: Environmental Directory and Fact Sheets

 → **Cal OES website - Environmental-Historic Preservation webpage**
<https://www.caloes.ca.gov/ehp>


Jurisdictions Map ← 
<http://tinyurl.com/ycbxth3w>



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**CDAA Funding and
Other information**



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Administrative Allowance


- Applicant's cost for administering the grant
- Calculated at 10 percent of net eligible costs (State share 75 percent)
- Automatically added to obligation payment

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Payment Notification



- All funding disbursements issued on State Warrants
- State Warrants prepared and mailed by State Controller's Office
- Cal OES sends notification letter before State Warrant is issued



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Final Closeout Process



- Request filed by applicant within 60 days of completion of last project
- Site inspection by Cal OES
- Adjustment made to actual eligible costs
- Retention released
- Applicant invoiced for overpaid funds

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Project Accounting



- Segregate disaster related work from normal activities
- Actual costs and expenditures should be accumulated AS THEY OCCUR
- Keep all documentation...
DETAILS,
DETAILS,
DETAILS

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Record Retention Requirement

- Keep records for three years from date of Cal OES Audit Waiver letter
- Beware of routine destruction cycles

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Fair Hearing Process (Appeal)

Two Levels:

- First Level to Cal OES Assistant Director of Recovery
- Second Level to Cal OES Director







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Other Federal Programs

Cal OES cost shares with the following:

- Natural Resources Conservation Service (NRCS), Emergency Watershed Protection Program
- Federal Highway Administration (FHWA), Emergency Relief Program

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NRCS Contact



Direct NRCS questions to:

Mr. Ernesto De La Riva
State Conservation Engineer
(530) 792-5680
Ernesto.DeLaRiva@usda.gov





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FHWA Contact

Direct FHWA ER Program questions to:

Mr. Bob Baca, PE
Emergency Relief Program Manager
Office of Federal Programs
Caltrans Division of Local Assistance
(916) 653-9151
Bob.Baca@dot.ca.gov

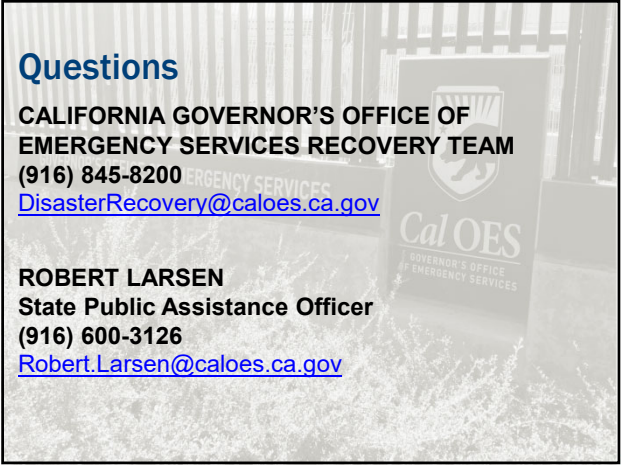



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Questions

**CALIFORNIA GOVERNOR'S OFFICE OF
EMERGENCY SERVICES RECOVERY TEAM**
(916) 845-8200
DisasterRecovery@caloes.ca.gov

ROBERT LARSEN
State Public Assistance Officer
(916) 600-3126
Robert.Larsen@caloes.ca.gov





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CDAAs Application Required Forms


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- List of Projects (LOP) Form (OES-PA-95)
- Designation of Authorized Agent Form (OES-FPD-130)


Download fillable forms: <https://www.caloes.ca.gov/PADocs>

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Hazard Mitigation Assistance Overview




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Contact HMA




General Inquiries

HMA@caloes.ca.gov



Grant Information & Timelines

www.caloes.ca.gov/hmgp



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