

## Chapter 1 Getting Started

- 1.1 Purpose** - The purpose of this manual is to provide program guidance and instructions for the owners of Federal roads applying for Federal assistance under the Emergency Relief for Federally Owned (ERFO) Roads program.
- 1.2 Program Intent** - The ERFO Program is intended to help pay the unusually heavy expenses associated with the repair and reconstruction of Federal roads and bridges seriously damaged by a natural disaster over a wide area or catastrophic failure. Restoration in-kind to pre-disaster conditions is expected to be the predominate type of repair.

Federal, tribal, state, and local governments that have the authority to repair or reconstruct Federal roads may apply for ERFO funds. Federal land management agencies are considered "applicants" under the ERFO program. Other governmental entities apply through an applicant.

- (a) **Natural Disaster** - The Federal Highway Administration will determine if there has been a natural disaster of sufficient extent and intensity to warrant ERFO funding consideration. There must be serious damage to Federal roads, over a wide area, which has resulted in unusually heavy expenses.
- (1) Serious damage - Heavy, major, or unusual physical damage to the highway which severely impacts the safety, capacity, or usefulness of the highway or results in road closure. Serious damage must be beyond the scope of heavy maintenance.
  - (2) The term "wide area" is an area sufficiently large enough to encompass parts or all of several entities such as counties, states, or Federal agency management units (individual forests, parks, refuges, regions, districts, etc.) and can include areas outside of the land administered by a Federal agency applying for emergency relief. In the case of significant flooding, eligible damage sites should be evident in a number of major drainage basins. In the determination of "wide area", examination of other roads (state, county, local) should be included. Serious damage to roads caused by extraordinary storms occurring over small areas would not meet the "wide area" criteria and would normally not be justified for a positive ERFO finding.
- (b) **Catastrophic Failure** - A catastrophic failure of a road or bridge is a failure that is sudden and complete due to an external cause. The failure must occur on a major segment or element of the road system and cause a disastrous impact that results in unusually high expenses. A failure that results from structural deficiencies, normal physical deterioration, or lack

of maintenance will not qualify for ERFO funding. Additionally, if alternate routes are available ERFO funds may not be approved.

- (1) The term “disastrous impact” denotes severe disruption of access to critical facilities (e.g. schools, hospitals, or residences), or severe economic impact to an industry important to the local economy, or elimination of access to a major portion of Federal Lands.

**1.3 Overview** - Federal, tribal, State, and local governments must be prepared to respond quickly when disasters strike. Federal assistance may mean the difference between transportation system recovery and failure.

This chapter provides a brief overview of the Emergency Relief for Federally Owned Roads Program, its statutory authority, its intent, the purpose for this manual as well as an outline of the various roles and responsibilities shared by the various entities.

The Federal Highway Administration has developed a video presentation entitled "When Disaster Strikes" that provides a visual overview of the ERFO program. This video may be obtained by contacting your local Federal Lands Highway ERFO Coordinator.

**1.4 Highlights of Federal Emergency Relief Programs** - The Federal government has three emergency relief programs which provide assistance for the repair and reconstruction of seriously damaged roads and bridges caused by natural disasters or catastrophic events as follows:

**(a) Emergency Relief for Federally Owned (ERFO) Roads Program.**

- (1) Authorized under Title 23, United States Code, Sections 120 and 125.
- (2) Provides for assistance for roads and bridges that have been defined as Federal roads.
- (3) Funds are provided from the Highway Trust Fund through the Federal-Aid Highway Emergency Relief Program.
- (4) Further clarified with interagency agreements.
- (5) The Federal share for the repair of Federal roads is 100 percent.

**(b) Federal-Aid Highway Emergency Relief (ER) Program.**

- (1) Authorized under Title 23, United States Code, Section 125.
- (2) Provides assistance to roads that have been defined as Federal-Aid highways (all state and local public roads that have been classified or designated as Interstate Highways, National Highway System routes, or major rural and urban arterial and collector roads).
- (3) Local streets and rural minor collectors are not eligible for the Emergency Relief Program.
- (4) A cost-sharing program established by law between the Federal Government and the state transportation departments and/or local highway authorities. The Federal share ranges from 80 percent to 100 percent.
- (5) Some Federal roads are also Federal-Aid highways. The state transportation department and/or local highway authorities may elect to receive reimbursement for eligible emergency repairs from either the ER or ERFO Program for these roads.
- (6) The Federal Highway Administration also publishes an Emergency Relief Manual, which includes detailed guidance on the Emergency Relief process, including the eligibility of repair work for funding. Copies of the manual [Publication No. FHWA-PD-98-054-HNG-1219-09(7M)E] may be obtained from the Federal Highway Administration, Office of Program Administration (HIPA), 400 7th Street, Washington, D.C., 20590 or over the internet at <http://www.fhwa.dot.gov/programadmin/erelief.html>.

**(c) Robert T. Stafford Disaster Relief and Emergency Assistance Act, Federal Emergency Management Agency.**

- (1) Authorized under Title 42, United States Code, Section 5121, et seq.
- (2) Grants and eligibility of repairs are determined by individual Presidential declarations which may authorize State or local government for the repair, restoration, reconstruction, or replacement of public facilities that are damaged or destroyed by a major disaster and for associated expenses incurred by such government.
- (3) Considered as an alternative funding source to repair damage that is ineligible under the ERFO or Emergency Relief programs.

- (4) For additional information on the Federal Emergency Management Agency (FEMA) Program, please contact the FEMA Office of Emergency Information and Public Affairs in Washington, D.C. A copy of its Public Assistance Guide, FEMA 322, may be obtained from FEMA, RR-IS-EN, 500 C Street SW, Washington, DC 20472 or over the internet at <http://www.fema.gov/r-n-r/pa/padocs.htm>

**1.5 Authority** - The Emergency Relief for Federally Owned Roads Program is authorized under Title 23, United States Code, Sections 120 and 125. This law authorizes an emergency fund and expenditure for the repair or reconstruction of roads and bridges that the Secretary of Transportation has found to have suffered serious damage as the result of natural disasters over a wide area or as the result of catastrophic failures.

**1.6 Stewardship Policy** - The Office of Federal Lands Highway is responsible for management oversight and accountability of the ERFO Program.

**1.7 Federal Share Payable** - The Federal share payable on account of any repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, [refuge roads and trails], and Indian reservation roads may amount to 100 percent. The total cost of a project may not exceed the cost of repair or reconstruction of a comparable facility. U.S.C. Title 23, Sec. 120. Federal share payable.

## **1.8 Policy Clarifications**

### **(a) Funding**

- (1) The Emergency funds are replenished on an annual basis from the Highway Trust Fund and may be supplemented by special appropriations.
- (2) ERFO funds may be used as follows:
  - (i) To restore Federal roads and bridges to pre-disaster conditions.
  - (ii) To repay other funds used on approved ERFO repairs.
- (3) ERFO funds may **NOT** be used as follows:
  - (i) To duplicate assistance under another Federal program or compensation from insurance, cost share, or any other funding source. Each applicant is expected to identify its responsible participants and their level of participation in

cost share agreements on the requested Program of Projects Table as well as on the Damage Survey Report. The applicant shall make diligent efforts to recover their costs from legally responsible parties to reduce project costs where highway damages are caused by ships, barge tows, highway vehicles, vehicles with illegal loads, privately owned dams, and similar improperly controlled objects or events.

**Special Note:** Where other funds cover only part of the cost, ERFO funds can be used to pay the remaining eligible costs.

- (ii) To replace other funds shown on an approved Transportation Improvement Program for the correction of pre-existing, non-disaster/non-catastrophic failure related deficiencies.
  - (iii) To pay for the heavy maintenance, ineligible repair work, emergency services (e.g., ambulances, helicopters, etc.) or material, equipment, economic losses (e.g., stockpiled material, maintenance equipment, lost revenue, snow removal, etc.).
- (b) **Compliance** - All ERFO projects shall comply with all pertinent Federal, state, and local laws.
- (c) **Funding Threshold.**
- (1) The threshold for Federal road and bridge damage is \$700,000 for each natural disaster.
  - (2) The threshold for Federal road and bridge damage is \$700,000 for each catastrophic failure.
  - (3) Damage less than \$700,000 will be reviewed on a case-by-case basis.
  - (4) If the combined road and bridge damages for an individual natural disaster for all the agencies that manage eligible Federal roads is less than \$700,000, the agencies are expected to fund the repair costs, even if the damage sites could be potential ERFO sites.

- (d) **Economic Hardship.** Agencies shall strive to anticipate their probable needs for additional funding that may result from disaster events and budget accordingly. Economic hardship is not a factor in determining eligibility.
  
- (e) **Approvals/Determinations.**
  - (1) Federal Highway Administration determination concerning the extraordinary nature of the natural disturbance is not necessary when the President has issued a Major Disaster Declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).
  
  - (2) The Federal Lands Highway Division Engineer must determine that serious damage has occurred to Federal roads for all disasters. However, since it is incumbent on the Applicant to protect remaining facilities, minimize damage, and restore essential travel, eligible emergency repairs do not require prior concurrence of the Federal Lands Highway Division Engineer to maintain eligibility for ERFO funds.
  
  - (3) Permanent repairs shall have prior program approval unless they are necessary and practical to accomplish as emergency ERFO repairs.
  
- (f) **Timing.**
  - (1) ERFO work shall be given prompt attention and priority over the agencies non-emergency work and programmed projects.
  
  - (2) Projects not under construction by the end of the second fiscal year following the year that the disaster occurred will be withdrawn from the approved Program of Projects unless suitable justification is provided by the agencies to warrant retention.
  
  - (3) The agencies should complete permanent repairs by the end of the fourth fiscal year following the year that the disaster occurred.

**1.9 Interagency Agreement Needed for Participation in the ERFO Program -** Participation in the ERFO program requires an interagency agreement be in place or in the process of being established between the Federal Highway Administration and entity in need of relief prior to release of funds.