

Chapter 3 Funding

- 3.1 Funding Source** - The Highway Trust Fund is the source of Emergency Relief funds. Title 23, United States Code, Section 125, authorizes funds for emergency and permanent repairs of Federal-Aid and other Federally owned roads and bridges. Congress can also authorize additional emergency relief funds through supplemental appropriations acts.
- 3.2 Funding Cap** - The total obligation of emergency relief funds (both Emergency Relief for Federal-Aid Highways and ERFO) for projects resulting from a single natural disaster or catastrophic failure is capped at \$100,000,000 per disaster, per state, unless otherwise waived by Congress.
- (a) **If the funding cap is waived or modified**, the Federal Lands Highway ERFO Program Manager will notify the applicants and the Federal Lands Highway Divisions in writing. The applicants and the Federal Lands Highway Division Engineers may then request any additional funds necessary to reach the full amount of funding in the approved Program of Projects.
 - (b) **When the Federal Highway Administration calculates that the emergency relief cap of \$100,000,000 per disaster, per state would be exceeded** if all repairs were completed, the Federal Lands Highway ERFO Program Manager will allocate emergency relief funds, if available, among the applicants.
 - (1) The funding of emergency repairs will be given preference over permanent repairs.
 - (2) Applicants shall submit prioritized lists of the emergency and permanent repairs shown in the approved Program of Projects, based on available funding amount.
- 3.3 Requesting ERFO Funds** - All requests for ERFO funds must be made in writing to the Federal Lands Highway ERFO Program Manager. Only request funds that will be obligated within the current fiscal year. The request for funds (except requests for Quick Release as described below) must include a copy of the Program of Projects Approval Letter. Each agency or Division shall make following request:
- (a) **Applicant Administered Projects** - The applicant shall make the requests for projects administered by their own agency.
 - (b) **Federal Lands Highway Administered Projects** - The Federal Lands Highway Division Engineer or ERFO Coordinator shall make the requests for projects administered by the Federal Lands Highway Division.

3.4 Types of Requests for Transfer of ERFO Funds - There are (3) three types of ERFO funds requests and are described below.

- (a) **Quick Release Request** - After the positive disaster finding by the Federal Lands Highway Division Engineer and before the Program of Projects is approved, a Quick Release of funds may be requested. The purpose of Quick Release is to make emergency repairs to re-establish vital transportation system(s) after a catastrophic failure or major natural disaster. The requests will be reviewed by the Federal Lands Highway Division Engineer, on a case-by-case basis. The process to request and receive Quick Release is as follows:
- (1) The applicant must make a request in writing to the Federal Lands Highway Division Engineer. See Appendix C.6.
 - (2) For each request, the applicant will receive a Quick Release Response Letter. If the request is approved, the response letter will authorize the initial amount available for emergency repairs. See Appendix C.7.
 - (3) If Quick Release is approved, the applicant's headquarter office must formally request these funds from the Federal Lands Highway ERFO Program Manager.
 - (4) The Federal Lands Highway ERFO Program Manager will transfer, if available, Quick Release funds to the applicant.
- (b) **Initial Request** - Any time after the first Program of Projects has been approved, the applicant or Federal Lands Highway Division, may request the initial transfer of ERFO funds that they expect to **obligate within the current fiscal year**. The request shall not exceed the amount of the approved Program of Projects.
- (c) **Subsequent Request** - After the initial request and prior to September 15, the applicant and the Federal Lands Division shall make their funds requests for the new fiscal year.
- (1) The Federal Lands Highway ERFO Program Manager will consolidate these requests and submit them to the Emergency Relief Program Manager.
 - (2) The Federal Lands Highway ERFO Program Manager, will transfer to the applicant or allocate to the Federal Lands Division offices amounts not to exceed the approved Program of Projects based on the following factors:

- (i) Funding amount received from the ER Program Manager for the ERFO Program.
- (ii) ERFO Funds Request for fiscal year.
- (iii) Current Approved Program of Projects.
- (iv) New fiscal year disasters.

3.5 Transfer/Allocation of ERFO Funds/Obligational Authority - All ERFO fund transfers and allocations shall be entered into the DOT accounting system by State and funding program code. The Federal Lands Highway ERFO Program Manager will transfer or allocate Obligational Authority, by disaster, state, and funding program code to the applicant's headquarters or the Federal Lands Highway Division Engineer as described below.

Special Note: Transfer or Allocation of ERFO funds will be delayed if prior year Disaster Repair Status/Closeout Reports have NOT been submitted to the Federal Lands Highway Division Engineer. In addition, transfer of ERFO funds may also be delayed until prior year obligations have been reconciled between the applicant and Federal Lands Highway Program Headquarters offices.

- (a) **Applicant** - The Federal Lands Highway ERFO Program Manager shall issue a Transfer of ERFO Funds letter with a summary of the Applicant's current fiscal year ERFO Program obligations. In addition, the Federal Highway Administration's Office of Budget and Finance shall issue a Federal Highway Administration Form 370 (Allotment Advice Form) to the applicant, confirming the transfer authority and limitation.
- (b) **Federal Lands Highway Division** shall receive an Allocation Memorandum from the Federal Lands Highway ERFO Program Manager with a summary of the Division's current fiscal year ERFO Program or obligations.
- (c) **State or Local Government** -When approved for ERFO funding, they will not receive funds directly from the Federal Lands Highway ERFO Program Manager. They should enter into a reimbursable agreement directly with the Federal Lands Highway Division Engineer, which allows them to directly bill the Federal Lands Highway Division Engineer for the cost of approved ERFO repairs. With this method, the ERFO funds needed for the repairs are allocated by an Allocation Memorandum to the Federal Lands Highway Division Engineer by disaster number, state and funding program code.

(d) **Indian Tribal Governments** will not receive funds directly from the Federal Lands Highway ERFO Program Manager. They must make their funding needs known directly to the Bureau of Indian Affairs. The Bureau of Indian Affairs has the responsibility of an applicant for Indian-administered projects and must:

- (1) Request and receive funds from the Federal Lands Highway ERFO Program Manager for Indian projects.
- (2) Enter into Public Law 93-638 contracts or self-governance compacts with the Indian tribes for the repair of ERFO projects as requested by the tribes.

3.6 ERFO Funding Program Codes - Each ERFO Allocation Memorandum and Transfer Letter will provide funding program codes that indicate the type of ERFO funds authorized. The Federal Lands Highway Divisions and the applicant must use these funding program codes to track the obligation and expenditure of all ERFO funds received. The applicant and Federal Lands Highway Division Engineer must report the obligation of funds back to the Federal Lands Highway ERFO Program Manager by disaster number and funding Program Code(s). The three digit program fund code historically used follows the format PC-09*.
*(alpha or numeric digit)

3.7 Applicant Points of Contact - Applicant field units are not to request ERFO funds directly from the Federal Lands Highway ERFO Program Manager. The applicant's headquarters office is responsible for providing a point of contact who is responsible for requesting funds from the Federal Lands Highway ERFO Program Manager.

3.8 Repairs NOT Eligible for ERFO Funds - When a construction contract contains both eligible and ineligible ERFO work, the agency administering the contract has the following responsibilities.

(a) **Applicant, State, County, and Tribe Administered Projects** - The agency administering the contract must inform the Federal Lands Highway Division Engineer of the funding source of the ineligible work in writing prior to project completion. Failure to notify the Division Engineer may jeopardize future ERFO funding. The responsible agency must ensure that separate accounts are established and work not eligible for ERFO funding is charged to non-ERFO accounts.

(b) **Federal Lands Highway Division Administered Projects** - The agency responsible for the operation and maintenance of the road must transfer funds (obligational authority and liquidated cash) or enter into a reimbursable agreement with the Federal Lands Highway Division for the ineligible work prior to the Federal Highway Administration advertising

the approved ERFO repairs. Fund transfers by the applicant to the Federal Highway Administration will be made via Standard Form-1151 or other established fund transfer procedures.

3.9 Advancing Projects During an ERFO Fund Shortage - When all available funds are exhausted, the Federal Lands Highway ERFO Program Manager will not allocate ERFO funds to the applicant or Federal Lands Highway Division to cover funding needs on previously-approved disasters or for new disasters. ERFO fund requests received during this time will be held until Congress replenishes the Emergency Relief Program accounts through a supplemental appropriation. Recognizing that quick congressional action is not always possible, the following options or combinations thereof may be used to fund or advance ERFO projects on an interim basis. When ERFO funds become available, the Federal Lands Highway ERFO Program Manager shall reimburse the applicant for the use of any applicant or Federal Lands Highway Program funds which have been appropriately documented.

- (a) **Unobligated Balances from other Approved Disasters** - If an applicant has received funds for other ongoing ERFO disasters, the unobligated balance of ERFO funds from these approved disasters could be made available. Although the Federal Highway Administration transfers ERFO funds to an applicant based on funds requested for a specific disaster, it does not object to the applicant using unobligated ERFO funds from one previously approved disaster to cover additional approved ERFO needs on another approved disaster. The applicant is required to obtain approval from the Federal Lands Highway ERFO Program Manager when this option is used. The only time this use of ERFO funds is not acceptable is when funds are limited by law to a specific disaster or the use of the funds exceeds the approved Program of Projects for that disaster.
- (b) **Applicant Funds** - Other applicant funds may be used to perform approved ERFO repairs. If this option is used, the Federal Lands Highway ERFO Program Manager would reimburse the applicant an amount of ERFO funds equal to the total obligated amount of applicant funds upon their availability.
- (c) **Federal Lands Highway Program Funds** - Federal Lands Highway Program funds may only be used on highways that are eligible for that particular category of funds. In addition, the following approval is required:
 - (1) Forest Highway funds may only be used pending agreement from the appropriate state and Forest Service officials;
 - (2) Park Road and Parkways funds may only be used pending approval from National Park Service Headquarters;

- (3) Indian Reservation Roads funds may only be used pending approval from the affected Indian tribal government(s) and the Bureau of Indian Affairs;
- (4) Refuge Roads funds may only be used pending approval from the Fish and Wildlife Service Headquarters office; and
- (5) Public Lands Highway Discretionary funds are project specific and approval from the Federal Highway Administration is required.

3.10 ERFO Funding Priorities - When available ERFO funds are insufficient to meet current fiscal year fund requests, the Federal Lands Highway ERFO Program Manager will allocate funds as shown below. Listed in priority order they are:

- (a) **Reimbursement (Payback) of Agency Funds**, including State, county and local government funds used on approved ERFO repairs.
- (b) **Reimbursement (Payback) of Federal Lands Highway Program Funds** (FH, PRP, IRR, RR, and PLH-D) used on approved ERFO repairs.
- (c) **Funds Needed for CE and Contract Modifications** for ongoing ERFO construction projects.
- (d) **Funds Needed for Current Fiscal Year.**

3.11 Fiscal Responsibility and Reporting Requirements - The applicant is responsible for the administration of ERFO funds and obligational authority that has been transferred with it. This includes compliance with all applicable laws, regulations, and fiscal reporting requirements. Fiscal reporting is required for each disaster. The Federal Lands Highway ERFO Program Manager will withhold funds if the reporting requirements shown below are not met.

- (a) **Unobligated Balances** – The applicant and Federal Lands Highway Division must report all unobligated ERFO Funds at the end of each fiscal year as follows:
 - (1) **Applicant** - The applicant shall report the amount of unobligated ERFO funds (by Program Code) to the Federal Highway Administration using a Standard Form 133, Report on Budget Execution (generally done by the applicant's Budget Office on September 30). The Federal Lands Highway ERFO Program Manager and the applicant will reconcile all reported amounts. Per written request by the applicant, the Federal Lands Highway ERFO Program Manager will reinstate the unobligated fund balances (by Disaster Number and Program Codes) as soon as possible the following fiscal year.

- (2) Federal Lands Highway Division – The Federal Lands Highway ERFO Program Manager and the Federal Lands Highway Division ERFO Coordinators will reconcile all reported amounts of unobligated ERFO funds (by Disaster Numbers and Program Codes). Per the written request from either the Federal Lands Highway Division Engineer or Federal Lands Highway ERFO Coordinator, the Federal Lands Highway ERFO Program Manager will withdraw all unobligated funds and reinstate the funds (by Disaster Number and Program Code) as soon as possible the following fiscal year.
- (b) **Disaster Repair Status/Closeout Report** - The applicant and the Federal Lands Highway Divisions must prepare and submit a Disaster Repair Status/Closeout Report for each disaster by December 31 of each year. The information on this report should reflect the status of each disaster through the end of the previous fiscal year.
- (1) Applicant - Submit the Disaster Repair Status/Closeout Report to the Federal Lands Highway Division Engineer. See Appendix C.20.
 - (2) Federal Lands Highway Division - Submit the Disaster Repair Status/Closeout Reports for any work conducted by Federal Lands Highway Division to the applicant. In addition, submit these reports and all reports received from the applicants (Section 3.11(b)(1)) to the Federal Lands Highway ERFO Program Manager. See Appendix C.20.
- (c) **Annual ERFO Funds Request** – This serves as a statement of upcoming needs for the next fiscal year and must be submitted by the applicant and the Federal Lands Highway Divisions to the Federal Lands Highway ERFO Program Manager by September 15. See Appendix C.18.
- (1) As a final Closeout Report by the applicant, the Disaster Repair Status/Closeout Report must present a final accounting of the costs claimed for the disaster by each Damage Survey Report. The final Closeout Report must be submitted to the Federal Lands Highway ERFO Program Manager within six (6) months of the completion of all repairs. See Appendix C.20.
 - (2) As a final Closeout Report by the Federal Lands Highway Division Engineer, a Disaster Repair Status/Closeout Report must present a final accounting of the costs claimed for the disaster by each Damage Survey Report. The final Closeout Report must be submitted to the applicant and the Federal Lands Highway ERFO Program Manager within six (6) months of the completion of all repairs. See Appendix C-20.

3.12 Fund Reconciliation - Based on the Federal Lands Highway final Disaster Closeout Letter, the Federal Lands Highway ERFO Program Manager will reconcile funds with the applicant's headquarters and the Federal Lands Highway Division Engineer.

- (a) **Funds are Available.** Funds will either be transferred to or withdrawn from the applicant or allocated to or deallocated from the Federal Lands Highway Division by Disaster Number, State and Program Code.
- (b) **Funds are NOT available.** If ERFO funds are not available for transfer or allocation, the disaster will not be closed until funds become available and are either transferred to the applicant or allocated to the Federal Lands Highway Division by disaster number, state and program code.