



**U.S. Department of Transportation  
Federal Highway Administration**



## **Emergency Relief for Federally Owned Roads**

# **Disaster Assistance Manual**

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**E**mergency

**R**elief for

**F**ederally

**O**wned

Roads

**Disaster Assistance Manual**

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**U.S. Department of Transportation  
Federal Highway Administration  
Washington, DC 20590**



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## CHAPTER 1 GETTING STARTED



### 1 Introduction

The *Emergency Relief for Federally Owned Roads Program*, or ERFO Program, was established to assist Federal agencies with the repair or reconstruction of Federal roads, which are found to have suffered serious damage by a natural disaster over a wide area or by a catastrophic failure (23CFR668.201).

#### 1.1 Purpose

The purpose of this manual is to provide federal land management agencies with guidance and instructions to apply for federal assistance under the ERFO program. Federal, tribal, state, and local governments that have the authority to repair or reconstruct federal roads may apply for ERFO funds, but only the federal land management agencies (FLMA) can apply directly as an “Applicant.” The other governmental entities must apply through an “Applicant.”

#### 1.2 Program Intent

The intent of the ERFO program is to pay the unusually heavy expenses in the repair and reconstruction of Federal roads 23CFR668.205 (a). The ERFO program is **not** intended to cover all repair costs nor interim emergency repair costs that are necessary to repair or reconstruct Federal roads.

Agencies have the responsibility to perform emergency repairs and fund the unexpected expenditures, shift project priorities and manage reduced traffic service levels that a natural disaster can present. Emergency relief work shall be given prompt attention and priority over non-emergency work.

### **1.3 Authority**

The Emergency Relief for Federally Owned Roads Program is authorized under Title 23, United State Code, Sections 120 and 125. This law authorizes an emergency fund and expenditure for the repair or reconstruction of roads and trails 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.

### **1.4 Stewardship and Oversight**

The Office of Federal Lands Highway is responsible for efficient and effective management of public funds entrusted by Congress and for ensuring that the ERFO Program is administered consistent with laws, regulations, and policies.

The applicants are expected to prioritize projects for repair that are in the public best interest based on available funds.

### **1.5 Overview**

Federal, tribal, state, and local governments must be prepared to respond quickly when disasters strike. The purpose of this manual is to provide the applicants with procedural information to enable this quick response.

*Chapter 1* presents a brief overview of the ERFO program, its statutory authority and intent.

*Chapter 2* presents the ERFO Program's administrative process from disaster approval to disaster closeout.

*Chapter 3* presents the funding process beginning with requesting funds through disaster closeout and includes accountability and reporting requirements.

*Chapter 4* identifies ERFO eligible roads and eligible repairs.

*Chapter 5* lists roles and responsibilities of individuals within the agencies and Federal Lands Highway offices.

### **1.6 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 trails caused by natural disasters or catastrophic events.

#### **1.6.1 ERFO Program**

- a) Authorized under Title 23, United States Code, Sections 120 and 125.
- b) Provides financial assistance to approved Applicants and eligible roads and trails that have been defined as federal roads in Title 23, Code of Federal Regulations (CFR).
- c) Funds are provided from the Highway Trust and occasionally the General Fund through the Federal-aid Highway Emergency Relief Program.
- d) Further clarified under CFR, Part 668; ERFO Disaster Assistance Manual; and with interagency agreements.
- e) The federal share payable under this program is 100 percent of the cost.

#### **1.6.2 Federal-aid Highway Emergency Relief (ER) Program**

- a) Authorized under Title 23, United States Code, Sections 120 and 125.

- b) Provides assistance for roads that have been defined under Title 23, CFR, Part 668 as federal-aid highways (all state and local public roads that have been classified or designated as Interstate Highways, National Highway System routes, rural and urban arterials, and major collector roads).
- c) Local streets and rural minor collectors are not eligible.
- d) 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.
- e) 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 programs for these roads.
- f) The FHWA published 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 7<sup>th</sup> Street, Washington, D.C. 20590; or over the internet at <http://www.fhwa.dot.gov/programadmin/erelief.html>.

### **1.6.3 Robert T. Stafford Disaster Relief and Emergency Assistance Act, Federal Emergency Management Agency**

- a) Authorized under Title 42, United States Code, Section 5121, et seq.
- b) Grants and eligibility of repairs are determined by individual presidential declarations that 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.
- c) Considered as an alternative funding source to repair damage that is ineligible under the ERFO or Emergency Relief programs for state, county, and tribal governments.

For additional information on the Federal Emergency Management Agency (FEMA) Program, 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, D.C. 20472 or over the internet at <http://www.fema.gov/>.

## **1.7 Federal Share Payable**

The federal share payable for 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 is 100 percent. The total cost of a repair 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 Funding**

Emergency funds are appropriated annually from the Highway Trust Fund. The emergency funds may be supplemented by special appropriations out of the Highway Trust Fund or the General Fund. During periods of insufficient funds, the agencies should continue to make necessary repairs using their funds. Other funds obligated shall be reimbursed when ERFO funds are available (23 U.S.C. Section 125(c)).

- a) When ERFO funds are insufficient to meet anticipated needs, the FLH will place a priority on allocating funds for:
  - (1) Reimbursement (payback) of Applicant funds, including state, county, local and tribal government funds used on approved ERFO repairs;
  - (2) Reimbursement of FLHP funds (FH, PRP, IRR, RR, and PLH-D) used on approved ERFO repairs;
  - (3) Construction engineering and contract modifications for ongoing ERFO construction projects;
  - (4) Emergency repairs of high-use facilities that are critical to the agencies' mission and/or health and welfare of the local community/region; and
  - (5) Fiscal year disasters.
- b) ERFO funds will not be approved to supplant other funds for the correction of pre-existing, non-disaster related deficiencies nor will ERFO funds be approved for the repair or reconstruction of facilities affected by long term, pre-existing conditions, or predictable developing situations (23CFR668.105(b) and 23CFR668.109(c)(6)).
- c) ERFO funds shall not duplicate assistance under another Federal program or compensation from insurance or any other source. Diligent efforts shall be made to recover costs from legally responsible parties prior to applying for ERFO funds.
- d) ERFO funds will not be approved for heavy maintenance, routine emergency repair activities, emergency services (e.g. ambulances, helicopters), repair or relocation of utilities, snow removal, material, equipment, or economic losses (e.g., stockpiled material, maintenance equipment, lost revenue, or personal injury).
- e) While ERFO funds may be used to restore federal roads and bridges to pre-disaster conditions, agencies may supplement ERFO funds to address agency priorities not approved for ERFO funding.

## **1.9 Funding Threshold**

- a) The minimum threshold for federal road and bridge damage is \$700,000 for each natural disaster and catastrophic failure.
- b) The minimum threshold for each damage site (Emergency and Permanent Repairs) is \$5,000.
- c) 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 using their agency funds.

## **1.10 Environmental Compliance**

The Applicant shall comply with all pertinent federal, state, and local laws.

## **1.11 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.

## **1.12 Approvals/Determinations**

- a) The Federal Lands Highway (FLH) Division Engineer (DE) determines if a natural disaster or catastrophic failure is eligible for ERFO funding.
- b) The finding for natural disasters will be based on both the extraordinary character of the natural disturbance and the wide area of impact. Storms of unusual intensity occurring over a small area do not meet these conditions.
- c) FLH DE determination concerning the extraordinary nature of the natural disturbance is not necessary when the President issues a Major Disaster Declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).
- d) Emergency repairs do not require prior concurrence of the FLH DE. It is incumbent on the agency with jurisdiction over the road to protect remaining facilities, minimize damage, and restore essential travel. However, sufficient documentation, including pictures of the damage must be provided to establish eligibility.
- e) Permanent repairs require prior program approval unless they are necessary and practical to accomplish as emergency repairs.

## **1.13 Timing**

- a) Emergency relief projects shall be promptly constructed and given priority over non-emergency work. (23CFR668.205 (b) and (e)).
- b) Projects not under construction by the end of the second fiscal year following the year in which the disaster occurred will be reevaluated and will be withdrawn from the approved program of projects unless suitable justification is provided by the agencies to warrant retention 23CFR668.205 (e).

## **1.14 Interagency Agreement Needed for Participation in the ERFO Program**

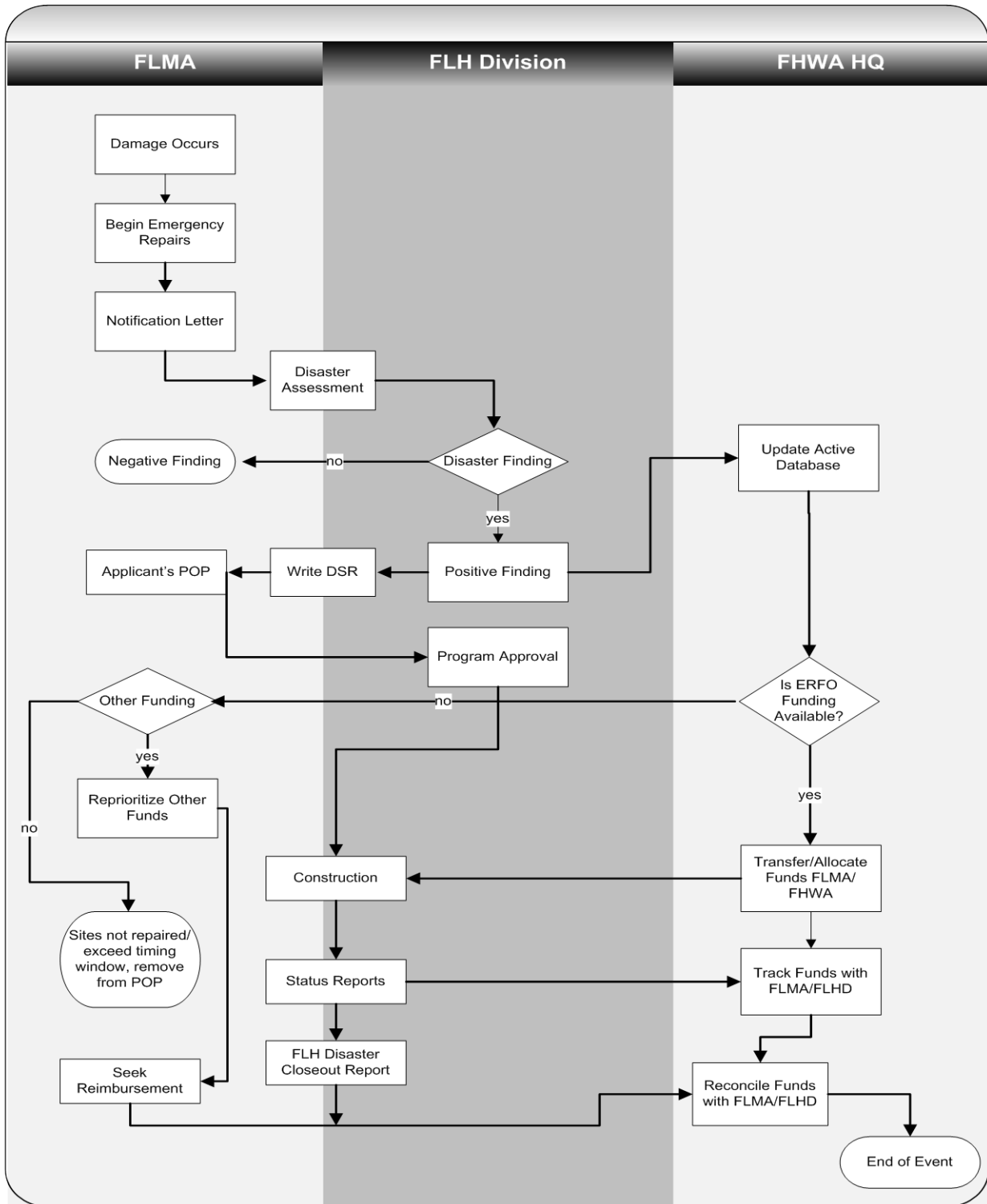
Participation in the ERFO program requires an interagency agreement be in place prior to release of funds.





# CHAPTER 2 THE PROCESS

## 2 Process Flow Chart









## ERFO PROCESS TIMELINE

### Disaster Occurs

↓  
Notice of Intent (NOI): **FLMA** submits by letter to FLHDE **within 45 days**

↓  
Acknowledge NOI: **FLH DE** replies by letter **within 14 calendar days**

↓  
Disaster Assessment: **FLHD** completes **as soon as practical**

↓  
Disaster Assessment Report: **FLHD** completes **ASAP** following Disaster Assessment

↓  
Positive/Negative Finding: **FLH DE** replies by letter **within 6 weeks** after the receipt of the NOI

↓  
Program of Projects (POP) Request: **FLMA** submits **within 3 months** after the date of the Positive Finding

↓  
POP Approval: **FLH DE** completes **within 30** calendar days

↓  
Funds Request: **FLMA** submits for current fiscal year obligations

↓  
Emergency Repairs: **FLMA** completes **within 180 days** of the damage

↓  
Permanent Repairs: **FLMA** must award construction contract by the **end of the second fiscal year** following the fiscal year in which the disaster or catastrophic failure occurred. This allows from **25 to 36 months** completing design and beginning construction. Projects may be withdrawn from the POP unless a time extension is approved by the FLH DE

↓  
Time Extension Justification: **FLMA** must submit to the FLH DE for approval at least **60 days prior** to the end of the second fiscal year following the fiscal year in which the disaster occurred

↓  
Disaster Status Report: **FLMA** submits **by November 30** for the preceding fiscal year

↓  
Prior-year Unobligated Balance Report: **FLMA** submits to FLH headquarters within the first quarter of the new fiscal year

↓  
Annual ERFO Funds Request: **FLMA** submits needs for the next fiscal year to the FLH ERFO Program Manager **by September 15**

↓  
Final Disaster Status Report: **FLMA** submits the final closeout report to the FLH DE within 6 months after the final inspection

↓  
Project Closeout/Funds Reconciliation: **FLMA** completes permanent repairs and closes out the disaster within 4 years of the disaster

## 2.1 Damage/Disaster

The Federal Highway Administration (FHWA) will determine if there has been a natural disaster (i.e., severe storms, tidal waves, earthquakes, landslides) of sufficient extent and intensity to warrant ERFO funding consideration. To this end, FHWA defines the following:

**Natural disaster**: An unusual natural occurrence such as a flood, hurricane, severe storm, tidal wave, earthquake, or landslide which causes serious damage.

**Serious damage**: heavy, major, or unusual damage to a highway which severely impairs the safety, or usefulness of the highway or results in road closure and must be beyond the scope of heavy maintenance.

**Wide area**: a tract sufficiently large to encompass parts or all of several entities such as counties, states, or federal agency management units (individual forests, parks, refuges, regions, districts, and so on) and can include areas outside of federal lands. Significant flooding would involve a number of major drainage basins.

**Special Note**: Serious damage to roads caused by extraordinary storms occurring over small areas would not be considered eligible for ERFO funding.

**Catastrophic failure**: The sudden failure of a major element or segment of the highway system due to an external cause. The failure must not be primarily attributable to gradual and progressive deterioration or lack of proper maintenance. The closure of a facility because of imminent danger of collapse is not in itself a sudden failure.

### 2.1.1 Occurrence

- a) When a natural disaster or catastrophic failure occurs (an “event”), an **Informal Notice of Intent** shall be initiated by the Applicant within two weeks via telephone or email to the Division ERFO Coordinator.
- b) It is the responsibility of the Applicant to assess the damage no more than 45 days after the event and to submit a **Formal Notice of Intent** to the Federal Lands Highway DE. [See Appendix C.1](#) for a sample letter and [C.1.1](#) for letter instructions.
- c) The DE will respond within two weeks of receipt of the Applicant’s formal Notice of Intent letter with an **Acknowledgment Letter** (see [Appendix C.2](#)).

### Special Notes:

- Photograph damage before beginning emergency repairs. Eligibility of emergency repairs will be based on submitted photographs.
- The Applicant may request Accelerated Release of ERFO funds for emergency repairs prior to the approval of ERFO POP. These funds are only to be used by agencies to make emergency repairs to re-establish their vital transportation system(s) after an event. A

request for Accelerated Release shall be reviewed by the FLHD on a case-by-case basis (see [Sections 3.4](#) and [Appendix C.6](#)).

### 2.1.2 Disaster Assessment

The ERFO Coordinators for the FLHD and the Applicant must plan and conduct an assessment of the damage and prepare a Disaster Assessment Report. This report shall document the cause and extent of damage and provide a recommendation to the DE for either a positive or negative finding. If a Presidential Disaster Declaration has been issued, the DE may waive or limit the assessment efforts.

Isolated damage sites unrelated to, or away from, the eligible disaster may be excluded from the Disaster area.

**Special Note: *Two disasters treated as one.*** Disasters can occur so closely in time that the damage to roads and trails is difficult or impossible to evaluate and track as two separate events. In these cases, the Applicant should request in a letter to the DE that the two disasters be recognized as a single event. Treating two disasters as one may simplify the processing of the repair and reconstruction projects by having a single ERFO finding resulting from the two disasters. This may not be desirable if one or both of the disasters potentially are subject to the \$100,000,000 cap per disaster per state. The supporting data must prove that facilities have suffered severe damage in both disasters and such damage is of sufficient severity to justify ERFO assistance.

- a) Applicant Responsibility Checklist. The Applicant must name a representative who is responsible for providing the following:
  - (1) In the case of catastrophic failure, obtain details of the cause of the failure, responsible parties, and impact of the damage;
  - (2) To expedite the disaster assessment, locate and identify damage sites prior to field assessment;
  - (3) Current bridge inspection reports to assist with the identification of bridge damage caused by the event;
  - (4) Maps of the road system and identify eligible roads; and
  - (5) Available pertinent data on the cause and extent of the damage such as:
    - (i) Rainfall,
    - (ii) Runoff data (hydrograph),
    - (iii) Dates of disaster occurrence,
    - (iv) Parties who may be responsible,
    - (v) Impact of the damage sites and/or facilities,
    - (vi) Information regarding the damage,
    - (vii) General maps of the damaged area, and
    - (viii) Photographs of specific damage in each area.

- (ix) Cost Documentation for any emergency repairs.

**Special Note:** The ERFO Coordinator will not conduct a field assessment until all of the information is provided. Delays in submitting information will not extend the eligibility time period.

b) Disaster Assessment – Field Review

The Team will review a representative sample of damage sites in each area cited by the Applicant in the Notice of Intent letter to determine the extent, type, cost, impact, and eligibility of the damage. In addition, the Team will develop a preliminary estimate of costs to repair damaged sites and/or facilities to their pre-disaster conditions.

c) Disaster Assessment – Report to DE

The ERFO Coordinator will prepare the *Disaster Assessment Report* for submission to the DE. The report must either support or dispute eligibility for ERFO funding and provide a recommendation of either a positive or negative finding ([see Appendix C.3](#)). The report shall include the following elements:

- (1) Natural disaster intensity and severity; In the case of flooding or severe storms, the report shall include available information regarding high-water elevations, stream-gage data, and rain-gage data. This information is not required if the President issues a *major disaster declaration*;
- (2) Catastrophic failure cause and unexpected nature. Document the significance of the damaged facility, the impact to the road users, and the sudden nature of the failure. Explain if the failure was caused by the expected gradual and progressive deterioration of materials or by lack of maintenance. If appropriate, give the names of parties that may have contributed to the failure. Also state if compensation will pay for any of the repairs, such as insurance or cost-share;
- (3) Dates of the occurrence;
- (4) Extent of the affected area, including areas outside the lands administered by federal agencies;
- (5) Description of the damage to federal roads and other roads (federal-aid highways, state, county, and city);
- (6) Copies of emergency relief reports and newspaper articles, as available;
- (7) Copies of presidential disaster declarations and/or governor proclamations;
- (8) Approximate cost of repairs or reconstruction of the damage;
- (9) Photographs of typical damage and appropriate maps showing the location of each area and extent of damage;
- (10) Copies of ERFO coordinators' trip reports;
- (11) Discussion of the impact of the subject damage. For example, a destroyed bridge with limited traffic has little impact, but a bridge serving as the

principal access to homes, large tracts of land, or carrying large amounts of traffic will have a significant impact and therefore, may qualify for Accelerated Release of ERFO funds for emergency repairs; and

- (12) Concluding statement. A final summary statement indicating that a natural disaster has (or has not) caused serious and widespread damage to federally-owned roads or a catastrophic failure has (or has not) occurred resulting in a disastrous impact to access to transportation services. Include a specific recommendation for a finding.

## 2.2 Disaster Finding

The DE will make a disaster finding determination no later than six weeks after receipt of the *Notice of Intent*.

**Positive Finding Determination** The DE will issue a letter to the Applicant committing ERFO funds to repair eligible damage, subject to availability. The positive finding letter will establish the disaster number ([see Appendix C.4](#)).

**Negative Finding Determination** The DE will advise the Applicant by letter when the damage is not eligible for the ERFO program ([see Appendix C.5](#)).

**Special Note:** Eligibility questions that cannot be resolved by the FLHD and the Applicant may be appealed through the Office of Federal Lands Highway Associate Administrator with copies to the Director, Office of Program Development, and the ERFO Program Manager. The appeal should be submitted within two weeks of the receipt of the negative finding.

## 2.3 Damage Survey Report (DSR)



For disasters with few sites, the DSR(s) may be prepared while making the disaster assessment. The FLHD ERFO Coordinator and Applicant will jointly develop a plan to proceed with DSR preparation. DSRs should be prepared and submitted for approval as soon as possible after the positive finding. In some cases, this is not always possible. DSRs must be completed and submitted for approval within nine months of the positive finding.



### 2.3.1 DSR Preparation

The Damage Site Survey Team shall make a detailed inspection of, and prepare a DSR for, each damage site. Every report should include a description of the extent and cause of the damage, as well as a proposal for a repair plan and cost estimate. When completed, all team members shall sign the report. When the team consists of Applicant and FLHD personnel, the FLHD team member shall indicate if they think the site is eligible or ineligible. (For detailed instructions on how to complete a DSR, [see Appendix C.9](#)).

**Special Note:** The Applicant must provide two area maps complete with all damage sites clearly numbered according to the corresponding DSR number (see Appendix [C.9.1](#) and

[9.2](#)). One map each shall accompany copies of completed DSRs to the Applicant and to the FLHD.

- a) In addition to completing the DSR, the team shall identify *emergency* repairs completed and emergency repairs remaining.
- b) Identify *permanent* repairs necessary to restore the site to its original condition.
- c) Identify major environmental issues that may have a substantive affect on repair costs and timelines.
- d) Justify betterments, if proposed.
- e) Identify repair options, if applicable.
- f) Identify level of environmental review expected [e.g., Categorical Exclusion (CE), Environmental Assessment/Finding of No Significant Impact (EA/FONSI), Environmental Impact Statement (EIS)].
- g) Provide detailed high quality color photographs for each site properly numbered and referenced to a particular damage site and DSR.
- h) Provide a sketch of damage and proposed repairs.
- i) Provide quantity calculations for major work items.
- j) Provide Road Management Objectives for forest development roads that include the following:
  - (1) Line Officer approval;
  - (2) Design criteria (critical and design vehicles, surfacing);
  - (3) Operation criteria (traffic service level); and
  - (4) Maintenance criteria (future and present)

### **2.3.2 DSR Personnel – Roles and Responsibilities**

Applicants are encouraged to proactively conduct a damage site survey and begin preparation of the DSR. This can greatly accelerate advancement of the Program of Projects. In a case where the FLHD is unable to provide team personnel, the Applicant personnel will be authorized to perform the damage site survey and complete the DSRs. [See Appendix C.8](#) for a list of recommended equipment.

- a) FLHD personnel will review all DSRs and may conduct field reviews of selected sites prior to approving the damage description, scope of the proposed repair, and cost estimate.
- b) Based on the results of these reviews, the Applicant will modify the DSR as deemed necessary by the FLHD ERFO coordinator.

### 2.3.3 DSR Submittal

The Applicant must submit the original DSR to the DE for approval.

### 2.3.4 Combining Damage Sites

It may be appropriate in some situations to combine damage sites so as to prepare a single DSR for a road or road segment. Typically, the use of one DSR for combined damage sites is reserved for damage that will be repaired in the same construction contract. The team will identify each individual site by mile post and will prepare a cost estimate complete with recommended repairs and photographs for each site. The DSR form will then represent a summary of the costs to repair the damage sites along the total length of road or road segment. However, damage sites **shall not** be combined just to meet the \$5,000 minimum threshold requirement for ERFO consideration.

Sites such as bridge replacements and major landslides shall have separate DSRs.

### 2.3.5 Amended DSRs

Amended DSRs must be completed when the following applies:

- a) The Applicant wants to revise the scope of approved repairs during design or construction. Examples of scope revisions that require amended DSRs include:
  - (1) Modifying, adding, or deleting major construction items;
  - (2) Revising the roadway cross-sections;
  - (3) Extending the project limit; and
  - (4) Electing to decommission the road.
- b) The cost estimate increases more than \$50,000 for DSRs less than \$250,000.
- c) The cost estimate increases more than 20 percent for DSRs over \$250,000.
- d) When multiple sites have been combined into one DSR and some of the site repairs must be delayed, those deferred repairs shall be separated from the projects that can be repaired promptly and accounted for separately.

## 2.4 Program of Projects Proposed by the Applicant

The initial POP should be submitted to the DE within 90 days after receipt of the *positive finding*. The submittal must contain the following:

- a) **POP Letter:** includes the completed DSRs and the Program of Projects Table, requests ERFO funds for the repair of damaged sites ([see Appendix C.10](#)), and requests FLHD assistance to repair damage, if applicable.
- b) **POP Table:** a list of all the DSRs submitted for approval indicating the proposed Agency responsible for repair ([see Appendix C.11](#)).
- c) **All DSRs:** DSRs must be submitted within nine months of the *positive finding* date to be eligible.

DSRs on eligible roads maintained for high clearance vehicles and administrative roads classified as public lands development roads will be approved only for cases where the Applicant funds the repair using agency funds and seeks reimbursement from the ERFO Program later. Advance ERFO funds will not be authorized for these two categories.

#### **2.4.1 Request FLHD to Perform Work**

If the applicant wants FLHD to perform ERFO repairs, they need to make the request so there is enough time to allow contract award by the end of the second fiscal year following the fiscal year the disaster occurred. The DE shall inform the Applicant by letter within 30 calendar days of the request for work that the FLHD agrees to perform.

#### **2.4.2 Advance Funding Limitations**

Do not request advance funding for roads shown below. The applicant may only request reimbursement after repairs have been completed with other funds. Show the fund source to be reimbursed on the Proposed Program of Projects.

- a) Roads maintained for high clearance vehicles.
- b) Administrative roads classified as Public Lands Development Roads.

### **2.5 Approved Program of Projects (POP)**

#### **2.5.1 Program of Projects Approval Letter**

The POP approval letter from the DE establishes the maximum amount of funds approved for the repair of eligible damage. The approved POP shall be completed within 30 calendar days of receipt of the Applicant's POP ([see Appendix C.12](#)). The purpose of this letter is to:

- a) Identify projects in the Applicant's proposed programs that are approved, including any required changes.
- b) Identify *future project approvals* required by the DE such as plans, specifications, and estimates; concurrence in award; rejection of bids; and project acceptance. Project selection will be based on project complexity, cost, and past performance; it may include randomly selected projects.
- c) Identify work the FLHD agrees to perform.
- d) Provide approval of the use of *force account* when it is determined that it is in the best interest of the public.

#### **2.5.2 ERFO Fund Availability**

Even though the funding level is approved in the DE's Program of Projects Approval Letter, ERFO funds may or may not be available. If ERFO funds are not available, the Applicant is expected to use other funds to cover the cost of the approved repairs until ERFO funds are available for reimbursement.



### **2.5.3 Revisions to the POP**

When DSRs are amended or new sites added, a revised POP request must be submitted to the DE for approval as soon as possible. The Agency responsible for submitting the revised POP varies as follows:

- a) Applicant. When the Applicant is the lead Agency for the repair of a project, the Applicant must request a revision to the DSR and the POP to ensure the availability of funds. It requires approval by the DE.
- b) FLH Division. When the FLHD is the lead Agency for the repair of a project, the DE will revise the Program of Projects with concurrence of the Applicant.

As stated previously, new DSRs will not be approved if submitted more than nine months after the date of the positive finding.

## **2.6 Environmental Compliance**

The lead Agency must comply with all applicable federal, state, and local environmental laws and permit requirements dealing with issues such as wetlands; resource conservation; clean water; endangered species; farmland; unexploded ordnances; and cultural resources. Supporting documentation that shows compliance with all applicable federal, state, and local environmental laws must be submitted to FLHD.

### **2.6.1 Emergency Repairs**

Regardless of which Agency administers the project, emergency repairs are categorically excluded from requirements to prepare National Environmental Policy Act (NEPA) documentation (i.e., Environmental Assessment or Environmental Impact Statement [see Federal Highway Administration's implementing regulations for the National Environmental Policy Act, specifically, 23 Code of Federal Regulations, 771.117(c)(9), emergency repairs under the ERFO program]).

### **2.6.2 Permanent Repairs**

NEPA documentation (e.g., Categorical Exclusion, Environmental Assessment, Environmental Impact Statement, and Record of Decision) is the responsibility of the lead Agency administering the project.

### **2.6.3 Applicant as Lead or Signatory Agency**

The Applicant shall request (via letter addressed to the DE) the FLHD's participation as a cooperating Agency. In the very rare case when an Applicant prepares an Environmental Impact Statement (EIS), the FLHD is required by law to be the lead or co-lead Agency. If an EIS is being considered by the Applicant, he/she shall notify the DE before issuing the Notice of Intent in the *Federal Register*.

### **2.6.4 FLHD as Lead or Signatory Agency**

When environmental compliance is the responsibility of FLHD, Title 23, Code of Federal Regulations 771 will be the basis of the environmental process. The FLHD

Project Development and Design Manual will provide additional environmental guidance. The Applicant would normally participate as a cooperating Agency at the request of the FLHD.

### **2.6.5 State, County or Tribe Repairs**

The lead agency shall submit documentation that shows compliance with all applicable federal, state, and local environmental laws to the FLHD for approval prior to initiating construction activities funded wholly or in part by the ERFO Program.

## **2.7 Construction Documents**

Plans, specifications, and estimates may be prepared by either the Applicant or by the FLHD. All FLHD projects shall incorporate “ERFO” and the Disaster Number in the project number, regardless of any other funding source used.

### **2.7.1 Repairs not eligible for ERFO funding**

If ineligible work is added to an ERFO project, the Applicant must:

- a) Amend the DSR and include the source of funding in the amended document. Failure to do so may jeopardize ERFO funding.
- b) Ensure that separate accounts are established.
- c) Charge repairs not eligible for ERFO funding to non-ERFO accounts.
- d) Report obligations/expenditures separately in the *Disaster Status Report*.

### **2.7.2 Simplified plans, specifications, and estimates procedures**

The DE or Applicant may prepare abbreviated plans and simplified project procedures to expedite ERFO repairs.

## **2.8 Time Limitations**

ERFO projects shall be constructed promptly. 23 CFR § 668.205(e).

### **2.8.1 Emergency repairs**

- a) Since it is in the public interest for emergency repairs to be performed as soon as possible, such repairs may be started without prior approval from the DE and shall be completed within 180 days after the event.
- b) The method of contracting may be determined by the Applicant.

**Special Note:** Photographs must be taken prior to beginning any emergency repairs to document the extent and severity of the damage.

### **2.8.2 Permanent repairs**

- a) *Force account* projects must be completed by the end of the second fiscal year following the event year.

- b) Contracted projects must be awarded by the end of the second fiscal year following the event year. This requirement gives the Applicant 25 to 36 months to award the permanent repair construction contract and to begin construction.
- c) Projects not under contract for permanent repair by the end of the second fiscal year following the event year shall be withdrawn from the POP and considered non-emergency permanent repairs unless the DE approves a time extension.

### **2.8.3 Contract Award Time Extensions**

Time extension requests must be submitted to the FLH DE for approval at least 60 days prior to the end of the eligible period. The Applicant is responsible for submitting suitable justification for contracts that will not be awarded prior to the end of the second fiscal year following the event year. The justification must include dates of completed milestones that demonstrate the project was given prompt attention and priority over non-emergency work ([see Appendix C.16](#)).

- a) The DE may grant a one year contract award time extension (see Appendix C.17) if one of the following exist:
  - (1) The Applicant gave the project prompt attention and priority over non-emergency work;
  - (2) A new disaster event significantly increases or changes an eligible site, prevents access to the site, or changes project priority; and
  - (3) Repairs are delayed due to ongoing litigation.
- b) Contract award time extensions will **NOT** be granted in the following situations:
  - (1) Lack of available ERFO or Agency resources delay the project;
  - (2) Repairs proposed for Applicant's *force account* crews are delayed; and
  - (3) Repairs were not given prompt attention and priority over non-emergency work;
- c) Time extensions beyond one year will not be considered by the DE. Beyond one year, an appeal to the FLH Associate Administrator will be required for unique or extraordinary circumstances that are beyond the control of the Applicant. Generally, the Applicant should not expect a time extension to be granted beyond the one year. This is to keep within the intent of the program and to optimize the use of available funding.

## **2.9 Annual Status and Disaster Closeout Reports**

### **2.9.1 Annual Reports**

The Applicant must submit two reports at the end of each year for each ERFO event.

- a) The Disaster Status Report must be completed by the Applicant and sent to the FLHD office by November 30 of each year. If complete reports are not received, funding will be withheld or delayed ([see Appendix C.20](#)).

This report serves as the Applicant's annual Status Report and final Closeout Report. When all projects have a date listed under the final column (Date Closed), the report is the Applicant's final Closeout Report.

- b) An Applicant's Prior-year Unobligated Balance Report must be sent to FLH headquarters within the first quarter of the new fiscal year. If reports are not received or are incomplete, funding (reinstatement) of the unobligated balances will be delayed until all data inconsistencies (including prior-year obligations) have been reconciled between the Applicant the FLH program headquarters offices.

The ERFO Coordinators must summarize the results of the previous fiscal year accomplishments (e.g., Disaster Approvals and Amounts and Positive and Negative Findings, Damage Site Information, Time Extensions, Disaster Closed, Funds Obligated by Applicant, Design and Construction Workload, etc.). The ERFO Coordinators must submit this Fiscal Year Accomplishment Report to the ERFO Program Manager by December 31 of each year.

## 2.9.2 Closeout

The FHWA expects that all ERFO projects will be completed by the end of the fourth year following the event year and the DE will begin closing out projects at that time. If all projects are not complete, a partial closeout of the event may be conducted.

- a) **Applicant Closeout Report.** At final closeout, the Disaster Status Report must identify the actual costs of repair for each DSR. Individual sites that are combined into a single construction contract may be reported together. *Force account* work may be reported on a road-by-road basis. Combining costs from multiple DSRs, other than as stated above, is not permitted (see Appendix C.20).
- b) **Partial Closeout.** At the request of the DE or the Applicant, partial closeout of completed site repairs may be initiated prior to completion of remaining site repairs. The partial closeout may include a review of ongoing construction projects as well as completed projects.
- c) **FLH Division Review.** The DE will review the Disaster Status Report for consistency with the approved POP and conduct follow-up field reviews as needed. Individual DSRs will be selected based on the following:
  - (1) Actual costs greater than 20 percent of the approved POP amount;
  - (2) High cost or technically complex projects;
  - (3) Force account projects; and
  - (4) Representative of the majority of projects.

- d) **Field Review Notification.** The Applicant will be notified when projects are selected for an in-depth field review and shall assemble contract documents and all financial records that support the costs submitted in the Closeout Report.
- (1) Contract documents include plans, specifications, permits, contract changes, contract payments, release of claims, and NEPA documentation.
  - (2) Financial records, such as payroll, travel, per diem; materials, supplies, equipment rental, and equipment hours must be properly documented and made available for each selected DSR.
- e) **Field Review Agenda.** The Applicant's administration of the ERFO program will be reviewed and evaluated. The following questions will be posed to ensure compliance with applicable laws, regulations, and policies:
- (1) General – What degree of support and oversight did the main (regional/state) office provide? Were projects given prompt attention and priority over non-emergency work?
  - (2) DSR Scope – Were projects built in substantial conformance with the approved DSRs?
  - (3) Completion time – Were the construction projects awarded by the second fiscal year following the event year? Were *force account* projects completed by the end of the second fiscal year following the event year? Were time extensions requested and approved for delayed work?
  - (4) DSR revisions – Were the DSRs revised when appropriate (e.g., 20 percent cost differential, change in scope)?
  - (5) Environmental compliance – Did the Applicant request (via letter addressed to the DE) the FLHD's participation as a cooperating Agency? Was supporting documentation that shows compliance with all applicable federal, state, and local environmental laws submitted to FLHD? How was compliance documented (e.g., CE, EA/FONSI, EIS)? If an EIS was prepared, was the FLHD notified and did the FLHD serve as the lead or co-lead Agency?
  - (6) Engineering – How was engineering managed (e.g., in-house, contract)? Were the design plans and specifications adequate? Did the plans and specifications have peer or Program Manager Review for compliance with the approved DSR scope? Were reviews conducted by the FLHD if noted in the approved POP?
  - (7) Materials and supplies – What kinds of materials and supplies were purchased? Were they eligible? Were all materials supported with adequate documentation? How were agency-furnished materials accounted for?

- (8) Repairs – How were the repairs administered (e.g., in-house, contracts)? Were permanent repairs approved prior to construction? If contract modifications occurred, were they adequately documented? Were there any salvaged items or materials?

(9) Accounting

- i) *Records.* Is there adequate detail to determine if the charges are appropriate (e.g., location of work, who worked, time worked, and material placed or removed)? Are the agency-submitted final costs supported by their financial records?
  - ii) *Non-eligible work.* If projects included non-eligible work, were non-ERFO costs funded and tracked separately? Were the accounts adjusted at project completion to reflect actual expenses?
  - iii) *Other funding sources.* Were ERFO funds used to replace other funding sources (e.g., repairs programmed prior to the disaster, damage caused by legally responsible parties, share cost agreements)?
  - iv) *Force account rates.* Are the equipment rental rates reasonable and based on an appropriate schedule?
  - v) *Right-of-way acquisitions.* What kind of documentation is available to ensure that all requirements (e.g., Uniform Act) are met
- f) **FLHD Closeout Report.** The DE will prepare a report summarizing the results of the office and/or field review. Adjustments to the Applicant's Closeout Report will be made if non-eligible costs were submitted. If the results of the field review indicate that additional projects should be reviewed, the Applicant will be notified and additional follow-up field reviews will be conducted as needed.
- g) **Closeout Letter.** The DE will summarize the results of the closeout review in the Closeout Letter, revise the amount of the approved POP, and request that the ERFO Program Manager begin funding reconciliation with the Applicant's headquarters (see [Appendix C.21](#)).
- (1) Submitted costs that cannot be satisfactorily assigned to a specific DSR will not be allowed.
  - (2) When non-eligible repairs are added to a project and the funding sources of those repairs are not satisfactorily documented, all ERFO expenditures may be disallowed.
- h) **Funds Reconciliation.** Based on the FLHD final Disaster Closeout Letter, the ERFO Program Manager will reconcile funds with the Applicant (see Section 3.4).
- (1) Funds will either be transferred to or withdrawn from the Applicant.
  - (2) If ERFO funds are not available, the event will not be totally closed until the funds become available and are transferred to the Applicant.





**CHAPTER 3 FUNDING**



**3 Introduction**

The Highway Trust Fund (Contract Authority) is the source of Emergency Relief funds. Congress may supplement Emergency Relief funds with General funds (Budget Authority). Title 23, United States Code, Section 125, authorizes funds for emergency and permanent repairs of Federal-aid and other federally-owned roads and trails. Congress can also authorize additional emergency relief funds through supplemental appropriation acts.

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 event per state unless otherwise waived by Congress.

- a) If the funding cap is waived or modified, the ERFO program manager will notify the Applicants and the FLHD in writing. The Applicant and the Division Engineer (DE)

may then request any additional funds necessary to reach to the full amount of funding in the approved Program of Projects (POP).

- b) When the Federal Highway Administration (FHWA) determines that the emergency relief cap of \$100,000,000 would be exceeded if all repairs were completed, the ERFO program manager will prioritize allocation of emergency relief funds, if available, among the Applicants according to priorities in Section 3.2.3.

Applicants shall submit prioritized lists of the emergency and permanent repairs shown in the approved POP, based on available funding.

### 3.1 ERFO Funding Process

#### 3.1.1 Requesting ERFO Funds

The ERFO Program Manager will only accept requests for funds from the Federal Land Management Agencies (Applicant) and Federal Lands Highway Divisions (FLHD).

Requests must be in writing (email) and must include a copy of the POP Approval Letter (except for requests for Accelerated Release as described below).

Requests must be restricted to only those funds that will be obligated within the current fiscal year. Requested funds cannot exceed the authorized POP amount.

States, counties, and tribes cannot request funds directly from the ERFO Program Manager.

- a) The BIA must request funds needed to reimburse tribes for work performed.
- b) FLHD must request funds needed to reimburse states and counties for eligible work performed.

#### 3.1.2 Types of Requests

There are three types of ERFO funds requests:

- a) **Accelerated Release Request.** After the positive disaster finding by the FLHD and before the POP is approved, an Accelerated Release of funds may be requested. The purpose of the Accelerated Release is to make emergency repairs to re-establish vital transportation system(s) after an event. The requests will be reviewed by the FLHD on a case-by-case basis. The process to request and receive Accelerated Release is:
  - (1) The Applicant must make a request in writing to the FLH DE ([see Appendix C.6](#)).
  - (2) For each request, the Applicant will receive an Accelerated 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 Accelerated Release is approved, the Applicant's headquarter office must formally request these funds from the ERFO Program Manager.



- (4) The ERFO Program Manager will transfer, if available, Accelerated Release funds to the Applicant.
- b) **Initial Request.** Any time after the POP has been approved, the Applicant or FLHD 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 POP.
- 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 FLHD to the ERFO Program Manager by September 15 ([see Appendix C.18](#)).
  - (1) The ERFO Program Manager will consolidate these requests and submit them to the Emergency Relief (ER) Program Manager.

The ERFO Program Manager will transfer to the Applicant or allocate to the FLHD offices amounts not to exceed the approved POP.

### 3.1.3 Allocation of ERFO Funds/Obligation Authority

All ERFO fund allocations shall be entered into the Department of Transportation (DOT) accounting system by state and funding program code. The ERFO Program Manager will allocate Obligation Authority, by disaster, state, and funding program code to the Applicant's headquarters or the FLHD as described below.

**Special Note:** Allocation of ERFO funds will be delayed if prior year Disaster Status Reports have NOT been submitted to the FLHD. In addition, allocation of ERFO funds may also be delayed until prior-year obligations have been reconciled between the Applicant and the FLH program headquarters offices.

- a) Applicants will receive an Allocation of ERFO Funds letter with a summary of the Applicant's current fiscal year ERFO program obligations. In addition, the FHWA Office of Budget and Finance shall issue a Form 370 (Allotment Advice Form) to the Applicant, confirming the allocation authority and limitation.
- b) FLHD will receive an Allocation Memorandum from the ERFO Program Manager with a summary of the FLHD's current fiscal year ERFO program or obligations.
- c) Each ERFO Allocation Memorandum will provide funding program codes that indicate the type of ERFO funds authorized. The FLHD and the Applicant must use these funding program codes to track the obligation and expenditure of all ERFO funds received. The Applicant and FLHD must report the obligation of funds to the ERFO Program Manager by event number and funding program code(s). The three-digit program fund code historically used follows the format PC-09<sup>1</sup> and TR6<sup>1</sup>.

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<sup>1</sup> Alpha or numeric character

### 3.1.4 Fund Transfers

- a) State or local governments will enter into a Reimbursable Agreement with the FLHD. With this method, ERFO funds needed for the repair costs are allocated by an Allocation Memorandum to the FLHD by event number, state, and funding program code. Work is done on a reimbursable basis and paid per provisions in the agreement.
- b) Indian Tribal Governments will enter into a PL 93-638 contract with the Bureau of Indian Affairs (BIA) for repairs performed by the tribe. The BIA has the responsibility of an Applicant for Tribal-administered projects and will request and receive funds from the ERFO Program Manager for Tribal projects.

## 3.2 Advancing Projects during an ERFO Fund Shortage

When all available funds are exhausted, ERFO fund requests will be held until the U.S. Congress authorizes additional funds. Recognizing that prompt congressional action is not always possible, the following options or combinations of options may be used to fund or advance ERFO projects on an interim basis.

### 3.2.1 Unobligated balances from other approved disasters

If an Applicant has received funds for an ERFO disaster, the unobligated balance can be used on other approved disasters. The Applicant is required to obtain approval from the ERFO Program Manager when this option is needed. This use of ERFO funds is not allowable when funds are limited by law to a specific disaster or the use of the funds exceeds the approved POP for that disaster.

### 3.2.2 Other Funds

- a) **Applicant funds.** Other Applicant funds may be used to perform approved ERFO repairs with reimbursement amount equal to the total obligated amount of Applicant funds.
- b) **Federal Lands Highway Program (FLHP) Funds.** FLHP 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 (FH) funds may only be used upon prior approval of the tri-agency agreement from the appropriate state, Forest Service, and FLHD officials;
  - (2) Park Road and Parkways (PRP) funds may only be used upon prior approval from National Park Service Headquarters;
  - (3) Indian Reservation Roads (IRR) funds may only be used upon prior approval from the affected Indian tribal government(s) and the BIA;
  - (4) Refuge Roads (RR) funds may only be used upon prior approval from the U.S. Fish and Wildlife Service Headquarters office; and
  - (5) Public Lands Highway Discretionary (PLH-D) funds are project-specific and approval from the FHWA is required.

### 3.2.3 ERFO Funding Priorities

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

- a) Reimbursement (payback) of Applicant funds, including state, county, local and tribal government funds used on approved ERFO repairs;
- b) Reimbursement of FLHP funds (FH, PRP, IRR, RR, and PLH-D) used on approved ERFO repairs;
- c) Construction engineering and contract modifications for ongoing ERFO construction projects;
- d) Emergency repairs of high-use facilities that are critical to the agencies' mission and/or health and welfare of the local community/region; and
- e) Fiscal year disasters.

### 3.3 Fiscal Responsibility and Reporting Requirements

The Applicant is responsible for the administration of ERFO funds and the obligation authority that has been transferred with it. This includes compliance with all applicable laws, regulations, and fiscal reporting requirements.

#### 3.3.1 Projects with combined funding

When a construction contract includes 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 FLHD of the funding source of the ineligible work in writing prior to project completion. Failure to do so may cause the entire site to become ineligible for ERFO funding. The responsible Agency must ensure that separate accounts are established and repair not eligible for ERFO funding is charged to non-ERFO accounts.
- b) FLHD Administered Projects. The Agency responsible for the operation and maintenance of the road must transfer funds (obligation authority and liquidated cash) or enter into a reimbursable agreement with the FLHD for the ineligible work prior to the FLHD advertising the project. Fund transfers will be made via Form-1151 or other established fund transfer procedures.

#### 3.3.2 Reporting Requirements

Each event requires a Disaster Status Report to be submitted to the ERFO Coordinator documenting the status of all approved funds.

**Special Note:** The ERFO Program Manager will withhold funds if the reporting requirements shown below are not met.

- a) **Unobligated Balances.** The Applicant and FLHD 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 FHWA using a Standard Form 133, Report on Budget Execution (generally done by the Applicant's Budget Office by September 30). The ERFO Program Manager and the Applicant will reconcile all reported amounts. Per written request by the Applicant, the ERFO Program Manager will reinstate the unobligated fund balances (by event number and program code) as soon as possible following the reconciliation process.



- (2) **FLHD.** The ERFO Program Manager and the FLHD will reconcile all reported amounts of unobligated ERFO funds (by event number and program code). Per written request from either the FLH DE or the ERFO Coordinator, the ERFO Program Manager will withdraw all unobligated funds and reinstate the funds (by event number and program code) as soon as possible following the reconciliation process.
- b) **Disaster Status Report.** The Applicant and the FLHD must prepare and submit a Disaster Status Report for each disaster by November 30 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.** Annually submit the Disaster Status Report to the FLHD. As a final closeout report by the Applicant, the Disaster Status Report must present a final accounting of the costs claimed for the event by each DSR. The final Disaster Status Report must be submitted to the ERFO Program Coordinator within six months of the completion of all repairs ([see Appendix C.20](#)). Supplemental funds used to address agency priorities not approved for ERFO funding must also be reported. The BIA must include the status of work performed by tribes.
  - (2) **FLHD.** Submit the Disaster Status Report for any work conducted by the FLHD to the Applicant. In addition, submit these and all reports received from the Applicants to the ERFO Program Manager. As a final closeout report by the FLHD, a Disaster Status Report must present a final accounting of the cost claimed for the event by each DSR. The final closeout report must be submitted to the Applicant and the ERFO Program Manager within six months of the completion of all repairs ([see Appendix C.20](#)).
- c) **Closeout Supporting Documentation.** Costs that cannot be satisfactorily assigned to a specific DSR will not be reimbursed. For each DSR, provide the following:
- (1) **Labor.** Time keeping document (time slip, time and attendance report, etc.);
  - (2) **Material.** Stock slip, vendor invoice;

- (3) **Equipment.** Mobilization, operation costs, depreciation or replacement costs, and rental costs;
- (4) **Contracts.** Plans, specifications, payments, construction modifications, and copy of executed contracts; and
- (5) **Expenditures.** Print out from Agency's financial system.

### 3.4 Fund Reconciliation

Based on the FLHD final Disaster Closeout Letter, the ERFO Program Manager will reconcile funds with the Applicant's headquarters and the FLHD.

- a) **Funds Available.** Funds will either be transferred to or withdrawn from the Applicant or allocated to or de-allocated from the FLHD by event number, state, and program code.
- b) **Funds not available.** If ERFO funds are not available for transfer or allocation, the event will not be closed until funds become available and are either transferred to the Applicant or allocated to the FLHD by event number, state, and program code.





**CHAPTER 4 ELIGIBILITY**



**4 Introduction**

The intent of the ERFO program is to fund repair of **serious** damage to roadways caused by a natural disaster or catastrophic failure. ERFO funds will not be approved to supplant other funds for the correction of pre-existing, non-disaster related deficiencies nor will ERFO funds be approved for the repair or reconstruction of facilities affected by long term, pre-existing conditions, or predictable developing situations. Damage will be approved on a site-by-site basis and will not include work considered to be heavy maintenance. Betterments added to prevent future damage must be economically justified.

Repair costs of a damaged site (emergency and permanent repairs) totaling less than \$5,000 are NOT eligible for ERFO funding. In addition, *damages at two or more sites shall NOT be combined to meet that threshold.*



## 4.1 Federal Roads and Trails

Roads and those trails that are high use engineered surfaced; Americans with Disabilities Act - ADA compliant; listed on the National Trails System Act of 1968 ([see Appendix E](#)) and defined in this section are eligible for funding.

### 4.1.1 Eligible Roads and Trails

- a) **Bureau of Land Management** roads and trails that are classified by the Bureau of Land Management as "Land Management Roads," as well as those roads and trails on the revested Oregon and California Railroad and reconvened Coos Bay Wagon Road Grant Lands in Oregon (commonly called O and C Lands) are considered public lands development roads and trails (as per memorandum of agreement).
- b) **Bureau of Reclamation** public roads owned by the Bureau of Reclamation on its project lands meet the definition of Public Lands Highways (as per memorandum of Agreement).
- c) **Corps of Engineers** public roads owned by Corps on water resources development projects and other administrative units meet the definition of Public Lands Highways (as per memorandum of Agreement).
- d) **Forest development roads and trails.** - The terms "forest development roads and trails" means forest roads and trails under the jurisdiction of the Forest Service.
- e) **Forest highway.** - The term "forest highway" means a forest road under the jurisdiction, and maintained by, a public authority and open to public travel.
- f) **Forest road or trail.-** The term "forest road or trail" means a road or a trail wholly or partly within, or adjacent to, and serving the National Forest System that is necessary for the protection, administration, and utilization of the National Forest and the use and development of its resources.
- g) **Indian reservation road.-** The term "Indian reservation road" means a public road that is located within or provides access to an Indian reservation or Indian trust land or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government, or Indian and Alaska Native villages, groups, or communities in which Indian and Alaskan Natives reside, whom the Secretary of Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians and is on the Bureau of Indian Affairs' Indian Reservation Road Inventory.
- h) **Military installation.-** The term "military installation" means public roads owned by the United States DOD military services

on military installations meet the definition of Public Lands Highways (as per memorandum of Agreement).

- i) **Park road.** – The term “park road” means a public road, including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles, that is located within, or provides access to, an area in the National Park System with title and maintenance responsibilities vested in the United States.
- j) **Parkway.** – The term “parkway” means a parkway authorized by Act of Congress on lands to which title is vested in the United States.
- k) **Public lands development roads and trails.** – The term “public lands development roads and trails” means those roads and trails that the Secretary of the Interior determines are of primary importance for the development, protection, administration, and utilization of public lands and resources under the control of the Secretary of the Interior.
- l) **Public lands highway.** – The term “public lands highway” means a forest road under the jurisdiction of and maintained by a public authority and opens to public travel or any highway through un-appropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations under the jurisdiction of and maintained by a public authority and open to public travel.
- m) **Refuge road.** - The term “refuge road” means public roads owned by the U.S. Fish and Wildlife Service on national wildlife refuges, national fish hatcheries, and other administrative units such as the National Conservation Training Center, meet the definition of Public Lands Highways (as per memorandum of Agreement).
- n) **Western Area Power Administration roads.**- The term “ Western Area Power Administration roads” are public roads which provide access to WESTERN-owned facilities such as transmission lines, switch yards, and substations meet the definition of public lands highways (as per memorandum of agreement).

## 4.2 Closed Roads

Roads that have been closed and/or placed into storage will not be approved for ERFO funds.

## 4.3 Repair standards

Roads and trails will generally be repaired to restore safe passage consistent with the pre-disaster conditions of the facility.

## 4.4 Road Damage

### 4.4.1 Boat Ramps

Boat ramps are not eligible for ERFO funding, but the roads leading to the ramps may be eligible.

### 4.4.2 Bridges

a) General:

- (1) When a bridge is destroyed or repairs are not feasible, the cost of a comparable facility that meets current geometric and construction standards for the type and volume of traffic it will carry during its design life is eligible.
- (2) Bridges that are scheduled for replacement (included in the 4-year STIP) are eligible for reasonable Emergency Repairs to restore essential traffic, but are not eligible for Permanent repairs.
- (3) Only repair of disaster related damage is eligible. If repair of disaster damage would not correct pre-disaster structural deficiencies, then Permanent Repairs are only eligible if other funds are used to simultaneously correct the structural deficiencies.

b) Temporary/Prefabricated/Portable bridges will be approved based on the following conditions:

- (1) Placement of the temporary bridge is needed to maintain essential traffic and failure to place the bridge would result in a disastrous impact.
- (2) Bridge may be leased or purchased contingent upon the following stipulations:
  - i) Purchase price minus resale value only.
  - ii) An economic analysis is completed prior to the purchase that demonstrates significant cost benefit of purchasing over leasing.
  - iii) Removal of the structure following permanent repairs.

**Special Note:** Maintenance of bridges after installation is not eligible.

### 4.4.3 Culverts

Repairing, cleaning, or resetting damaged culverts is eligible for ERFO funds. Destroyed culverts may be replaced to current engineering design standards or environmental requirements. For aquatic organism passage, [see Section 4.5.14.2 Environmental Requirements](#).



#### 4.4.4 Embankments



Embankment replacement to repair serious damage is eligible under the following conditions:

- a) Failures extending into the traveled way.



- b) Failures NOT extending to the traveled way are eligible if the roadway is in imminent danger of failure or if the damage severely impairs safety or usefulness of the roadway.

#### **4.4.5 Levees and Dikes**

Levees and dikes used for water control are not eligible. Roads on top of these structures are eligible (usually limited to the top 12 inches) after repair to levees or dikes are completed.

#### **4.4.6 Parking Lots**

Parking lots at a road terminus, that have an engineered surface, are eligible for ERFO funding.

#### **4.4.7 Roadway Surfacing**

Roadway surfacing, if major loss has occurred, is eligible. Roadway surface upgrades beyond the pre-disaster conditions are not eligible for ERFO funds.

ERFO funds are not intended for repairs of surface damage caused by traffic whether or not the damage was aggravated by saturated sub-grade or inundation.

#### **4.4.8 Stone Masonry**

- a) Stone Walls (Substandard). A replacement wall meeting current standards is eligible for ERFO funds if the applicant agrees to reconstruct the entire wall to current standards and uses non-ERFO funds to replace the undamaged portion(s) of the wall. However, if small section were damaged, ERFO funds could be used to repair the wall to pre-disaster conditions.
- b) Stone Masonry repairs on walls meeting current standards are eligible provided the applicant is able to document the pre-disaster condition of the masonry and the stone masonry damage is the result of the event.
- c) Stone masonry on new features (walls, curbs, etc.) is only eligible if the damaged/destroyed feature had stone masonry.

#### **4.4.9 Basin Flooding**

According to 23 CFR 668.109(b)(8), raising the grade as a result of basin flooding may be eligible for ERFO funds if the FHWA makes a formal determination based on the following factors:

- a) The affected road must be considered a critical Federal-aid highway or transportation facility with potential long-term loss of use due to an unprecedented rise in basin water level and if the corrective work is restorative rather than preventive in nature.
- b) The proposed increase in grade eligibility must be those routes that are critical to restoring traffic service. Factors to take into account in evaluating whether individual routes are critical could include provision of essential community

services such as access for school, ambulance, fire, and mail vehicles, availability of alternate routes, length of detours, etc.

#### **4.4.10 Slides**

Eligible repairs include removing debris, restoring slopes, and reconstructing the roadway and drainage facilities to provide a safe usable roadway. Slides that occur after the disaster period may be eligible for ERFO funds if written documentation shows that the slides were the direct result of the disaster event. Existing slides are eligible only if the slide is significantly accelerated by the disaster. Pre-existing, slow moving slides that are not significantly accelerated during the event are not eligible.

Slide stabilization is betterment.

- a) ERFO funds may be approved for slide stabilization based on a detailed analysis of the slide, by the applicant. ERFO funds may not be provided for all corrective measures performed by the applicant to “stabilize” the slide. ERFO funds generally are limited to paying the cost to provide a usable road.
- b) The analysis by the applicant must show that the stabilization cost does not exceed anticipated future ERFO costs to remove debris and provide a usable road. The cost of the analysis is the responsibility of the Applicant agency.
- c) The cost of monitoring slide stabilization measures after construction is NOT eligible for ERFO funds.
- d) A recurring slide previously stabilized with ERFO funds will not be considered eligible for additional funding, except when expressly approved by the DE.

### **4.5 Subsidiary Costs**

#### **4.5.1 Additional Damage**

Additional damage to a previously-approved site may be eligible.

- a) Damage that occurs before permanent repairs are completed is eligible for ERFO funds provided:
  - (1) The additional damage could not have been anticipated and appropriate emergency ERFO repairs were made to prevent further damage.
  - (2) The repairs are not the responsibility of the contractor.
- b) When additional damage is the result of a subsequent eligible disaster event, the repairs are eligible. The repairs may be combined under either event as follows:
  - (1) If the cost of the additional damage is applied to the original disaster, an amended Damage Survey Report (DSR) is required.
  - (2) If the cost of the additional damage is applied to the new event, a new DSR is required and the original DSR for that site must be amended.

- c) Damage that occurs after permanent repairs are completed may be eligible if it can be shown that the damage was directly caused by the event and not by other factors, and the repair shows signs of failure within three months after final inspection.

#### **4.5.2 Administrative Expenses**

- a) Permanent and any temporary Employees. Regular salaries and overtime salaries and wages of all permanent and temporary employees directly engaged in the performance of work on ERFO projects are eligible for reimbursement. Timekeeping procedures must allocate employees' time to a specific site, each day on an hourly basis. A timekeeping document, such as time slip, time and attendance report, or time book, must be available for examination by audit personnel to support direct labor costs claimed. A responsible employee having knowledge that the time distribution is accurately reported should sign the document.
- b) Payroll Additives. Usually referred to as labor surcharge, a set percentage over and above the total direct labor costs charged to a project is eligible for ERFO participation. This surcharge covers costs of various types of leave allowances, industrial accident insurance coverage, and other employee benefits. The allowable percentage rates will normally vary from year to year. Also, employee benefits allowed by one applicant may differ widely from those allowed by another. Therefore, the records used in developing percentage rates should be preserved under suitable control conditions to percentage rate may be applied only to direct labor costs.
- c) Travel and Per Diem expenses properly assigned to an eligible site and directly attributable to individual ERFO projects in accordance with Federal Joint Travel Regulation – are eligible for ERFO funding.

#### **4.5.3 Aesthetic Treatments**

Aesthetic treatments on new walls, bridges, and roadways such as stone facing or stone curb are not eligible.

#### **4.5.4 Betterments**

Betterments (added features) that help protect highway facilities from possible future ERFO eligible damage may be eligible if the applicant demonstrates through a life cycle cost analysis that it is economically justified to the ERFO program.

- a) Requests for funding betterments must be submitted by the applicant to the FLH DE for approval. A justification and economic analysis should be provided at the time the Damage Site Survey Team prepares the DSR.
- b) Life Cycle Cost Analysis. Betterments must be clearly justified to the ERFO program through a life cycle cost analysis. The analysis must be based solely on the present and future expected cost to the ERFO program. The analysis cannot include other factors typically included in highway benefit/cost evaluations, such as maintenance costs, traffic delay costs, added user costs,

motorist safety, and economic impacts. The analysis period will vary depending on the significance of the facility. Bridges and roads will typically be 50 years and 25 years, respectively, with some roads as low as 10 years or less.

**Special Note:** In many instances betterments will fail to meet the test of being economically justified to the ERFO program. If betterment provides considerable benefit when other factors are considered, the applicant is encouraged to use other funds, as appropriate, to fund it. These other funds must be identified to the FLH DE on status reports.

- c) **Examples of Betterments.** The following examples may help protect highway facilities from possible future damage and as a result may be approved:
- (1) Raising roadway grades.
  - (2) Relocating roadways to higher ground or away from slide-prone areas.
  - (3) Stabilizing slide areas.
  - (4) Stabilizing slopes.
  - (5) Installing riprap.
  - (6) Lengthening or raising bridges to increase waterway openings.
  - (7) Deepening channels.
  - (8) Increasing the size or number of drainage structures.
  - (9) Replacing culverts with bridges.
  - (10) Installing seismic retrofits on bridges.
  - (11) Adding scour protection at bridges.
  - (12) Adding spur dikes.

#### **4.5.5 Clearing Debris/Timber Removal**

Clearing debris and timber from roadways and water courses around bridge piers to adjacent locations within the right-of-way are eligible for ERFO funds. The costs of hauling timber to sawmill or to other locations beyond the proximity of the highway right-of-way are not eligible for ERFO funds.

- a) Debris removed on roads is limited to that necessary to assure the safety and full function of the roadway.
- b) Debris removed from watercourses is limited to that necessary to protect the structural integrity of the road or bridge and is limited to debris within the actual drainage channel, right-of-way boundary (or typical boundary if none).



#### **4.5.6 Construction Road Damage**

Access road (e.g., detour roads, haul roads, etc.) damage is eligible provided the applicant is able to document the pre-disaster condition of the roadway, legal load limits were enforced, and the damage is the result of the following:

- a) Damage caused by vehicles hauling roadway construction equipment or material necessary for making emergency ERFO repairs.
- b) Damage caused by emergency vehicles responding to the event.
- c) Damage to the roadway caused by other traffic is NOT eligible.

#### **4.5.7 Damage beyond Highway Right-of-Way**

Damage beyond the normal highway right-of-way width, including damage that is caused by or attributed to the highway facility (even if the applicant may be found liable for the damage) is not eligible.

#### **4.5.8 Decommissioning or Storing**

Decommissioning or storing eligible roads in lieu of repair is eligible. Funds are capped at the cost to repair eligible damage on the road. A portion of the decommissioned road can be left to function as a trail; however, trail construction along the abandoned facility is NOT eligible. Suitable turnaround facilities at the beginning of the decommissioned road section are eligible. Re-contouring is not eligible except at stream crossings.

Roads identified in a Decommissioning Plan will NOT be approved for ERFO funding. Decommissioning costs should be funded as originally planned.

#### **4.5.9 Delayed Projects**

Costs expended after the eligible period are not eligible for funding unless a time extension has been granted.

#### **4.5.10 Detour Routes**

- a) Construction costs are eligible to restore essential traffic consistent with anticipated volume and type of traffic, considering appropriate speeds, safety considerations, duration of use, and overall costs. However, detour construction that establishes pre-disaster levels of service does require prior approval by the FLH DE.
- b) Routine Maintenance of detour routes, not related to increase traffic volumes such as mowing, brushing, maintaining drainage, pavement signing and snow and ice removal are not eligible for ERFO funding.

#### **4.5.11 Direct Costs**

Direct costs incurred to repair damage are eligible. These costs include salaries, wages, fringe benefits, consultant services, travel, materials, supplies, and equipment directly used to accomplish the repair of eligible damage. All costs must be properly

documented in accordance with acceptable accounting standards (e.g., time slips, time and attendance reports, time books, contracts, receipts) and readily available for inspection by the ERFO coordinator. For additional details, [see Section 4.5.2](#).

#### **4.5.12 Emergency Repairs**

Emergency repairs are eligible and shall reduce to the greatest extent feasible, the cost of permanent repairs.

#### **4.5.13 Engineering Cost**

Engineering costs directly attributed to repairs are eligible as follows:

- a) Preliminary engineering.
- b) Construction engineering related to contract administration and inspection of construction work.

#### **4.5.14 Environmental Requirements**

- a) General

When project scope changes are required to avoid, minimize, or mitigate impacts related to the repair or reconstruction of eligible roads, the additional costs are fully funded up to 100% of the least cost environmentally viable alternative to current standards when fully documented.

- b) Aquatic Organism Passage

- (1) Cost for upsizing culverts or making other modifications to accommodate aquatic organism passages is eligible; and

- (2) Cost of major improvements (e.g., replacing a culvert with a bridge), will not be considered eligible for ERFO funding, except when expressly approved by the DE.

- c) Documentation

The Applicant must submit the following:

- (1) The specific section of the law, regulation, policy, or treaty that prohibits repair in-kind;

- (2) The specific impacts of the repair in-kind alternative that must be avoided, minimized, or mitigated;

- (3) A project description and cost estimate of the least cost, environmentally viable project that will meet the minimum requirements;

- (4) FLMA certification that the project is in the public's best interest; and

- (5) Results of consultation with regulatory agencies, if applicable.

#### **4.5.15 Equipment, Materials and Supplies**

- a) Equipment costs may be eligible as follows:
  - (1) Purchase (minus resale value) must be approved in advance by the FLH DE and must be cost effective when compared to renting.
  - (2) Rentals may include applicant-owned equipment, equipment rented from another public entity, and equipment rented from commercial sources. Rental rates should include operation, maintenance, and depreciation costs. Documentation required to support costs include the following:
    - i) A commercial invoice or other applicant-generated time and equipment use report that specifies, for each DSR the equipment was used on, the date of use and hours of operation.
    - ii) The equipment use record must be signed by the applicant's employee.
- b) Office materials and supplies are eligible for ERFO funds provided they are:
  - (1) Expendable.
  - (2) Properly identified on the stock-issue slip or vendor's invoice with the project charged and readily available for inspection by the FLHD ERFO coordinator.
- c) Construction equipment and materials that are NOT eligible for ERFO funds include:
  - (1) Replenishing or paying losses for damaged or destroyed material stockpiles (i.e., sand gravel, pipe, etc.) and items awaiting installation not incorporated into the roadway.
  - (2) Damages to an applicant's equipment (i.e., motor graders, tractors, etc.) and other losses (i.e., maintenance sheds, offices, picnic tables, trash cans, tent pads, boat launch ramps, etc.).

#### **4.5.16 Force Account Repair Costs**

Force account repair costs that exceed the costs comparable to those expected by the competitive bidding process are not eligible.

#### **4.5.17 Heavy Maintenance**

Work usually done to repair damage normally expected from seasonal and occasionally unusual natural conditions or occurrences is considered heavy maintenance. This includes work at a site required as a direct result of a disaster which can reasonably be accommodated by a state or local road authority's maintenance, emergency or contingency program even though it exceeds the minimum site threshold of \$5,000.

#### **4.5.18 Mobilization**

Mobilization costs are eligible as calculated from:

- a) The pre-disaster location of the equipment to the first eligible site.
- b) From one eligible site to the next logical eligible site.

#### **4.5.19 Permanent Repairs**

Permanent repairs performed prior to authorization are not eligible, unless it is determined to be more economical or practicable to perform such work as an associated part of the emergency repairs. Permanent repairs that differ from the approved repairs are not eligible.

#### **4.5.20 Programmed Work**

Programmed work to repair or replace facilities damaged during a disaster is not eligible. This work must be financed as originally intended. A project is considered "programmed" if the construction phase is included in the FLHD program or State Transportation Improvement Program or if contract plans are being prepared.

#### **4.5.21 Preventative Work**

Preventative work to avoid damages is not eligible unless approved as betterment.

#### **4.5.22 Right-of-Way**

Right-of-way acquisition required for repair of eligible damage is eligible for ERFO funding.

#### **4.5.23 Stream Channel Reconstruction**

Restoration of the stream channel necessary for the continued safe operation of bridge and drainage facilities is eligible for ERFO funding.

#### **4.5.24 Studies**

Studies undertaken to make transportation or land management decisions are not eligible. These include studying and gathering information for:

- a) Access Travel Management.
- b) Alternatives not approved for ERFO funding.
- c) Long-term environmental impacts such as climate change.
- d) Road closure/decommissioning.

#### **4.5.25 Traffic Control**

Traffic control devices, barricade erection and removal, and flagging traffic through or around damaged section of roadway or bridges are eligible.

## **4.6 Replacement Facilities**

Replacement facilities are appropriate when it is not practical and economically feasible from an engineering perspective to restore a damaged element to its pre-existing condition.

### **4.6.1 Design Standards**

Replacement facilities may be built to current standards as described below. (Reference 23 CFR § 668.209(d) Eligibility of work.).

- a) Roads - current engineering design standards of comparable capacity and character to the destroyed facility.
- b) Bridges - current design standards of a facility that meets current geometric and construction standards for the type and volume of traffic it will carry during its design life.
- c) Walls - current engineering design and construction standards and does not include cosmetic features such as stone facing.

### **4.6.2 Funding**

ERFO funds are limited to the least cost alternative that meets the design standards. The Applicant may supplement ERFO funds with other funds to construct an alternate facility.

## **4.7 Resolving Eligibility Issues**

Resolving eligibility issues shall be handled between the FLHD and applicant ERFO coordinators.

### **4.7.1 Unresolved Disputes**

Unresolved disputes may be forwarded to the DE.

### **4.7.2 Appeals**

Appeals may be elevated to the FLH Associate Administrator with copies to the following:

- a) Director, Office of Program Development
- b) ERFO Program Manager





## **Chapter 5 Roles and Responsibilities**

### **5.1 Applicant**

The applicant's representative is responsible for coordinating ERFO activities at the following organizational levels:

- a) Field
  - (1) Takes photos of the damage prior to repairs to help justify and document site eligibility.
  - (2) Initiates emergency repairs.
  - (3) Advises higher authorities about the severity and extent of the damage.
  - (4) Participates on disaster assessment teams and provides all available information required for the Disaster Assessment Report.
  - (5) Arranges for advance briefing sessions.
  - (6) Ensures that all teams evaluate the damage in a consistent manner.
  - (7) Monitors the progress of Damage Survey operations.
  - (8) Completes all required documentation from the beginning to end for the Program of Projects (see Chapter 2).
  - (9) Requests approval to use force account.
  - (10) Oversees the development of Plans, Specifications, and Estimates.
  - (11) Designates the Contracting Officer for work being administered by the applicant.
  - (12) Concurs in award/rejection of bids.
  - (13) Accepts completed construction.
  - (14) Insures prompt and efficient completion of ERFO repairs.
  - (15) Requests funds from Regional/State offices.
  - (16) Administers transfer of ERFO funds from applicant's headquarters office.
  - (17) Recovers ERFO repair costs from legally responsible parties and contacts the ERFO Program Manager about re-payment policies.
  - (18) Submits the following to the Federal Lands Highway Division office through the applicant's Regional/State office:
    - i) Notice of Intent Letter.
    - ii) Program of Projects.
    - iii) Requests for changes.
    - iv) Plans, Specifications, & Estimates.
    - v) Suitable justification for all requests for Time Extension(s).

- vi) Disaster Status Report.
  - vii) Any request for Federal Lands Highway assistance in project development and/or construction process.
- b) Regional/State Office is responsible for the following activities:
- (1) Notifies the Federal Lands Highway Division's ERFO Coordinator of a natural disaster or catastrophic failure.
  - (2) Arranges Disaster Assessment activities.
  - (3) Assignment of personnel to the Damage Survey Team.
  - (4) Participates in Disaster Assessment activities in the field.
  - (5) Assembles the following:
    - i) Program of Projects.
    - ii) Revisions for the disaster.
  - (6) Prepares all ERFO correspondence for the applicant field unit including but not limited to the following:
    - i) Notice of Intent Letter.
    - ii) Program of Projects Letter.
    - iii) Time Extension requests.
    - iv) All Disaster Status Reports (including partial).
    - v) Any request for Federal Lands Highway assistance in project development and/or construction process.
  - (7) Monitors and ensures prompt and efficient completion of all repairs.
  - (8) Provides:
    - i) Technical assistance.
    - ii) Copies of this ERFO Manual.
    - iii) Training.
    - iv) Information.
    - v) Eligibility guidance to applicant (field units).
    - vi) Maps identifying public and administrative routes.
  - (9) Requests funds through the applicant's headquarters office.
- c) Headquarters
- (1) Advises applicant field units of the amount of ERFO funds available for their disasters.
  - (2) Requests the following from the Federal Lands Highway Headquarters office:



- i) ERFO fund transfers.
  - ii) Liquidating cash.
- (3) Reinstatement of year-end unobligated ERFO fund balances.
- (4) Reports annual obligations and expenditures of ERFO funds to Federal Lands Highway Headquarters office.
- (5) Concur that roads maintained for high clearance vehicles, trails, and public lands development administrative roads (on lands under the control of the Secretary of Interior) are a national priority.

## **5.2 Federal Lands Highway**

- a) Division ERFO Coordinators are primarily responsible for coordination of the ERFO Program and subsequent activities with the applicant's Regional/State office. They are also responsible for ERFO program issues and activities within the Federal Lands Highway Division office and with the Federal Lands Highway Headquarters office including but not limited to the following:
  - (1) Receives informal Notices of Intent from the applicant.
  - (2) Contacts other Federal Agencies to see if they have related damage.
  - (3) Notifies the Federal Lands Highway Division Engineer.
  - (4) Notifies Federal Lands Highway ERFO Program Manager.
  - (5) Writes the Notice of Intent, Acknowledgment Letter.
  - (6) Conducts Disaster Assessments to verify the significant impact of the natural disaster or catastrophic failure and then coordinates all Disaster Assessment activities necessary for preparing Disaster Assessment Reports.
  - (7) Writes the Disaster Assessment Report.
  - (8) Provides joint guidance briefings prior to beginning the Damage Surveys.
  - (9) Coordinates Damage Survey Team(s) assignments.
  - (10) Instructs the Damage Survey Team(s) about the following:
    - i) How to perform the detailed damage site inspections.
    - ii) How to prepare the Damage Survey Reports.
    - iii) Eligibility requirements.
  - (11) Reviews and ensures completeness of all pertinent documentation including, but not limited to, the following:
    - i) Damage Survey Reports.
    - ii) Applicant Program of Projects and subsequent revisions.

- iii) Disaster Status Reports.
  - iv) Time Extension requests.
- (12) Makes recommendations to the Federal Lands Highway Division Engineer.
- (13) Discusses eligibility questions with the Federal Lands Highway Division Engineer.
- (14) Forwards eligibility questions that cannot be resolved between the Federal Lands Highway Division Engineer and the applicant to the Federal Lands Highway ERFO Program Manager for resolution.
- (15) Spends as much time in the field as practical when Damage Survey Reports are being prepared.
- (16) Retains the original of each Damage Survey Report and furnishes a copy of each completed Damage Survey Report to the applicant.
- (17) Reviews the applicant's Program of Projects.
- (18) Writes and forwards the Program of Projects Approval Letter and corresponding spreadsheets to the Federal Lands Highway Division Engineer for signature/approval.
- (19) Writes ERFO correspondence for the Federal Lands Highway Division Engineer.
- (20) Reviews and recommends approval of a variety of documents including, but not limited to, the following:
  - i) Applicant's Disaster Status/ Reports.
  - ii) Completed ERFO projects.
  - iii) Plans, Specifications, and Estimates on selected projects.
  - iv) Damage Survey Reports and their amendments.
  - v) Program of Projects and their revisions.
  - vi) Time Extensions.
- (21) Monitors in-house design efforts.
- (22) Requests funds from Federal Lands Highway Headquarters office.
- (23) Administers allocated ERFO funds.
- (24) Serves as Contracting Officer's Technical Representative (COTR) on Reimbursable Agreements.
- (25) Prepares Disaster Status Reports for in-house work.
- (26) Forwards Disaster Status Reports to the Federal Lands Highway ERFO Program Manager.

- (27) Conducts Disaster Closeout reviews in a timely manner, makes closeout recommendations to the Federal Lands Highway Division Engineer, and prepare final Closeout Letters.
  - (28) Prepares and Forwards Fiscal Year Accomplishment Report to the Federal Lands Highway ERFO Program Manager.
- b) Division Engineer - Is ultimately responsible for successful administration of the ERFO Program within the Federal Lands Highway Division office. Specific duties include, but are not limited to, the following:
- (1) Designates the Federal Lands Highway Division's ERFO Coordinator.
  - (2) Acknowledges the applicant's Notice of Intent Letter.
  - (3) Designates and dispatches Disaster Assessment Team(s), as necessary.
  - (4) Issues Positive or Negative Findings.
  - (5) Determines ERFO eligibility.
  - (6) Approves Damage Survey Reports, Program of Projects and subsequent changes/amendments.
  - (7) Delivers the ERFO Program for in-house work.
  - (8) Approves the following:
    - i) Requests for Time Extensions.
    - ii) Plans, Specifications, and Estimate package.
    - iii) Force Account work.
  - (9) Concurs in award/rejection of bids.
  - (10) Accepts completed construction for repairs performed by the Federal Lands Highway Division.
  - (11) Requests funds from Federal Lands Highway Headquarters office.
  - (12) Administers allocated ERFO funds.
  - (13) Completes disaster closeout in a timely manner.
  - (14) Enters into reimbursable agreements with agencies, State, county and local governments, prior to performing work.
  - (15) Ensures compliance with NEPA and all applicable environmental law and regulations.
  - (16) Forwards final Disaster Repair Closeout Report and letter to the Federal Lands Highway office.

- c) ERFO Program Manager
  - (1) Administers the nationwide ERFO Program and assures overall program quality through management oversight, program stewardship and funds accountability.
  - (2) Coordinates with the Federal Highway Administration's Emergency Relief (ER) Program Manager the following :
    - i) Annual ERFO fund allocations and transfers.
    - ii) Disaster Numbers.
    - iii) Reporting requirements.
    - iv) ERFO Funds Request for fiscal year.
    - v) Resolves conflicts between the ER and ERFO Programs.
  - (3) Reviews Positive or Negative Findings.
  - (4) Transfers and allocates funds.
  - (5) Coordinates with applicant, division, and headquarters personnel.
  - (6) Issues policy and procedures.
  - (7) Reviews eligibility appeals from applicants and makes recommendations to the Director, Office of Program Development and the Associate Administrator, Office of Federal Lands Highway.
  - (8) Updates the ERFO Manual.
  - (9) Develops, conducts, and/or assists in ERFO training.
  - (10) Develops and monitors Interagency Agreements.
  - (11) Assists applicants in the reconciliation and reinstatement of end-of-year unobligated ERFO funds by Program Code.
  - (12) Coordinates with the applicant's headquarters offices and the Federal Lands Highway Division's ERFO Coordinators on monitoring program activities.
  - (13) Develops:
    - i) Method to track fund transfers and allocations.
    - ii) Fiscal year obligation projections.
  - (14) Leads the following efforts:
    - i) Overall ERFO quality assurance.
    - ii) Program stewardship.
  - (15) Monitors the following:
    - i) ERFO field activities.
    - ii) ERFO funds request and Program of Projects.

- iii) Obligation of ERFO funds.
  - (16) Notifies each applicant:
    - i) When the \$100,000,000 cap per State per disaster has been exceeded or met.
    - ii) How ERFO funds will be transferred.
    - iii) When Congress has waived the \$100,000,000 cap per State per disaster.
  - (17) Provides:
    - i) Status and Fiscal Year Accomplishment reports, as required.
    - ii) Technical assistance and training.
    - iii) Status of the ERFO Program to the ER Program Manager.
    - iv) Guidance regarding administration of the ERFO Program.
  - (18) Reinstates unobligated ERFO funds to applicants at the end of the fiscal year.
  - (19) Reconciles fund transfers with the final Disaster Repair Closeout Report and letter.
- d) Federal Lands Highway Director, Office of Program Development
  - (1) Advises the applicant's headquarters office about the availability of funds.
  - (2) Approves ERFO Policy changes and ERFO Program agreements.
  - (3) Replies to congressional and public correspondence.
  - (4) Decides appeals.
- e) Associate Administrator, Office of Federal Lands Highway
  - (1) Delegates Administration of the ERFO Program.
  - (2) Decides appeals.

### **5.3 Other Agency Specific Roles and Responsibilities**

- a) Bureau of Indian Affairs notifies the Federal Lands Highway Division Engineer of damages sustained on Indian Reservation Roads. In addition, they are also required to inform the following entities of ERFO activities when such activities may impact:
  - (1) Indian tribal governments.
  - (2) State transportation agencies.
  - (3) Counties.
- b) Bureau of Land Management notifies the Federal Lands Highway Division Engineer about damages to Land Management Roads and Trails under the



- jurisdiction of a State or county providing access to or through public lands administered by the Bureau of Land Management.
- c) County, Local Governments and Other Agencies:
    - (1) Advises Federal Lands Management Agencies when damages are sustained on Federal Roads under their jurisdiction.
    - (2) Enters into a Reimbursement Agreement with the Federal Lands Highway Division Engineer.
    - (3) Has the same roles and responsibilities as an applicant as described in Section 5.1 (a).
  - d) Forest Service notifies the Federal Lands Highway Division Engineer about damages to Forest Highways that are under Forest Service or county jurisdiction.
  - e) Indian Tribal Government
    - (1) Notifies the serving Bureau of Indian Affairs agency or Regional Office that Indian Reservation Roads have been damaged and requests that the Bureau of Indian Affairs apply for ERFO funds to make repairs.
    - (2) Participates in the following activities:
      - i) Damage Survey Team.
      - ii) Detailed site inspections.
      - iii) Final inspection of ERFO projects on/near their reservation(s).
  - f) State Transportation Department
    - (1) Applies for ERFO funds through the Federal Lands Highway Division Engineer for all Forest Highways that are Federal-Aid Highways.
    - (2) Advises the Federal Lands Highway Division Engineer and Federal Lands Management Agencies of damage sustained on Federal Land Management Agency roads.
    - (3) Enters into Reimbursement Agreements with the Federal Lands Highway Division Engineer, prior to performing eligible ERFO repairs.
    - (4) Has the same roles and responsibilities as an applicant as described in Section 5.1 (a).

#### **5.4 Federal Highway Administration**

The Secretary of the Department of Transportation has delegated the administration of the emergency relief provision contained in Title 23 United States Code, Section 125, to the Federal Highway Administrator.



# APPENDIXES

## Appendix A – Definitions

**Abbreviated plans.** A set of construction drawings for a project, may not contain detailed plan and profile sheets, cross-section sheets, and culvert profile sheets. The drawings must provide all essential information necessary to describe the repairs to be accomplished and to allow bidders to properly estimate unit prices for the contract.

**Accelerated Release.** A transfer of ERFO funds for emergency repairs made prior to the approval of the Program of Projects and after the positive finding is issued. These funds are only to be used by the applicant to make emergency repairs to re-establish its vital transportation system(s) after a catastrophic failure or natural disaster over a wide area.

**Acknowledgement letter.** A letter issued by the Federal Lands Highway (FLH) Division Engineer (DE) to the applicant upon receipt of the applicant's Notice of Intent letter providing basic information about the subsequent disaster assessment, eligibility information, and application procedures, including the necessary coordination and cooperation between the applicant and FLH DE.

**Administrative road.** A road under the jurisdiction of a federal agency or Native American Indian tribal government that does not meet the definition of a public road. These roads may be closed locally at any time for any reason and remain closed indefinitely. Some of these roads may be gated or closed by earth barricades.

**Allocation.** An administrative distribution of funds for programs that do not have statutory distribution formulae. Allocations are made authorizing an amount of funds, by program code, for a specific ERFO disaster event.

**Allotment.** Provides current year obligation authority to the FLH or federal agency (FHWA's Allotment Advice Form 370).

**Applicant.** Any federal agency which submits an application for emergency relief (ERFO funds) and that has authority to repair or reconstruct federal roads. State transportation agencies, Native American Indian tribal governments, counties, and other local governments apply indirectly through a federal agency.

**Betterment.** Added features/facilities, not existing prior to the natural disaster or catastrophic failure, to help prevent future damage.

**BIA.** Bureau of Indian Affairs.

**Bureau of Land Management highways.** Designated public roads that provide access to or are within lands administered by the Bureau of Land Management.

**Catastrophic failure.** The sudden failure of a major element or segment of a Federal road which is not primarily attributable to gradual and progressive deterioration or lack of proper maintenance. The closure of a facility because of imminent danger of collapse is not in itself a sudden failure.

**CFLHD.** Central Federal Lands Highway Division.

**Comparable facility.** For roads, a facility identical in capacity and character to the original. For bridges, a facility which meets the current geometric and construction standards required for the type and volume of traffic that such a facility will carry over its design life.

**Construction engineering.** The work performed to supervise the construction operations through inspection of construction repairs, payments to the contractor, and otherwise representing the interests of the government.

**Construction limits.** The limits on each side of the project which establish the area disturbed by construction operations and beyond which no disturbance is permitted.

**Corps recreation road.** A public road that provides access to or within U.S. Army Corps of Engineers recreation or administrative areas for which title and maintenance responsibility is vested in the U.S. government.

**Damage Survey Report (DSR).** A FLH ERFO form that documents damage by road/route number and mile post, scope of work, estimated repair costs, and eligibility recommendations.

**Damage site survey team.** A team composed of Federal Highway Administration (FHWA) and applicant representatives responsible for conducting inspections of damage sites. They collect the information used to prepare the Damage Survey Report.

**Decommissioning or Storing.** Decommissioning, including storage of the road, may include one or more of the following:

- a) Blocking the entrance to a road and installing water bars;
- b) Removing culverts, re-establishing drainage-ways; and
- c) Removing unstable fills, pulling back road shoulders, and erosion control.

**Defense access road.** Public road designated by the Military Transportation Management Command that provides primary access to a military reservation, defense industry, or Department of the Air Force missile silos.

**Department of Energy roads.** Public roads that provide access to or within facilities such as transmission lines, switch yards, substations, and related facilities on public lands, including those lands and facilities located on withdrawn public lands, previously under the jurisdiction of the Bureau of Reclamation (i.e., owned by the Western Area Power Association).

**Disaster assessment.** An on-site evaluation of a site or sites conducted by a Disaster Assessment Team to determine extent, type, impact of damage, and cost to repair damage.

**Disaster assessment report.** Documentation of the extent, type, impact, and cost of damage to transportation facilities that is used to determine whether an event, a natural disaster or catastrophic failure, has occurred and includes recommendations for a Positive or Negative Finding to the FLH DE.

**Disaster assessment team.** A team of FHWA and applicant representatives who conduct a Disaster Assessment.

**Disaster number.** Reference number issued by the FLH ERFO Program Manager to the applicant indicating state, fiscal year of the disaster event (four digits only), sequential number of approved events for that state; and federal agency.

For example, WA2010-2-NPS indicates that it is for the second disaster event in Washington during fiscal year 2010 for the National Park Service. It could be either the first or the second Emergency Relief (ER) or ERFO disaster event in Washington.

**DSR.** See Damage Survey Report.

**DSR number.** Number assigned to each Damage Survey Report by the applicant. The number may contain the road/route number and the mile post number.

**EFLHD.** Eastern Federal Lands Highway Division.

**Emergency repairs.** Those repairs, including necessary preliminary engineering, construction engineering, and temporary traffic operations, undertaken within 6 months after a natural disaster or catastrophic failure to:

- a) Restore essential travel;
- b) Protect remaining facilities, and
- c) Minimize the extent of damage.

**Engineered Surfaced.** Consisting of manufactured materials (asphalt, concrete or crushed aggregate material) that are firm and stable under all weather conditions.

**Equipment.** Apparatus that is tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.

**ERFO.** Emergency Relief for Federally Owned roads.

**ERFO Coordinator.** An individual designated by the FLH DE to have overall ERFO Program coordination responsibility within the Division.

**ERFO funds.** Emergency relief funds available for expenditure under the authority of 23 U.S.C. 125(a) and (c).

**ERFO Program Manager.** An individual designated by the FLH Associate Administrator and the Director, Office of Program Development, who is the FLH point of contact for the administration and oversight of the nationwide ERFO Program.

**Event.** See Natural Disaster and Catastrophic Failure.

**Event number.** See Disaster Number.

**Facility.** Road or bridge.

**Federal-aid billing system.** The financial accounting system used by the FHWA's Federal-aid Divisions to reimburse states for eligible federal-aid expenses.

**Federal-aid division office.** FHWA field office located in every state.

**Federal Lands Highways.** Forest Highways, Park Roads and Parkways, Refuge Roads, Indian Reservation Roads, and Public Lands Highways that are public roads.

**Federal Lands Highway Division Engineer.** The individual designated to have overall responsibility for the operations of one of the three FLH Divisions.

**Federal Lands Highway Associate Administrator.** The individual designated to have overall responsibility for the administration and delivery of the FLH Program.



**Federal Lands Highway Director, Office of Program Development.** The individual designated to have overall responsibility for the program development and oversight of the FLH Program.

**Federal road.** Forest Highways, Federal Lands Highways, Forest Development Roads, Public Lands Development Roads, Public Lands Highways, Park Roads and Parkways, Refuge Roads, and Indian Reservation Roads as defined under 23 U.S.C. 101(a).

**FHWA.** Federal Highway Administration.

**Finding.** A letter or other official correspondence issued by the FLH DE to an applicant giving notification that, pursuant to 23 U.S.C. 125, federal roads have (positive finding) or have not (negative finding) been found to have suffered serious damage as the result of a natural disaster over a wide area, or a catastrophic failure.

**FLH.** Federal Lands Highway.

**FLHP.** Federal Lands Highway Program.

**Force account.** A method of reimbursement for repair work performed by the applicant that is based on actual labor, equipment, and material costs.

**Forest development roads and trails.** Forest roads and trails under the jurisdiction of the Forest Service.

**Forest highway.** A Forest Road under the jurisdiction of, and maintained by, a public authority and open to public travel.

**Forest road.** A road wholly or partly within or adjacent to, and serving, the U.S. Forest Service that is necessary for the protection, administration, and utilization of the National Forest System and the use and development of its resources.

**Functionally obsolete.** A bridge is functionally obsolete when the deck geometry, load carrying capacity (comparison of the original design load to the state legal load), clearance, or approach roadway alignment no longer meets the usual criteria for the system of which it is an integral part.

**FY.** Fiscal year.

**Heavy maintenance.** Work usually done to repair damage normally expected from seasonal and occasionally unusual natural conditions or occurrences is considered heavy maintenance. This includes work at a site required as a direct result of a disaster which can reasonably be accommodated by a state or local road authority's maintenance, emergency or contingency program even though it exceeds the minimum site threshold of \$5,000. Repair work which normally includes the following:

- a) Grading roads rutted by traffic;
- b) Cleaning or reshaping ditches;
- c) Correction of minor embankment or cut slope slip-outs;
- d) Removal of minor deposits of debris on roadways;
- e) Correction of minor erosion damage to traveled way, shoulders (i.e., loss of surfacing down to sub-grade), or embankments;
- f) Removal of minor mud deposits on roadways;
- g) Minor pavement settlement unless significantly accelerated by the disaster event;
- h) Minor damage to guardrail;

- i) Minor riprap damage;
- j) Replacement of short, isolated sections of surfacing washed away by flood water;
- k) Cleaning of culverts;
- l) Minor damage to culverts;
- m) Minor repair of fencing;
- n) Repair or replacement of isolated traffic signs;
- o) Area-wide projects to correct extensive minor damage; and
- p) Specialized equipment not normally required by routine maintenance.

**Indian reservation roads.** Public roads that are located within or provide access to an Indian Reservation or Indian trust land or restricted Indian land which is not subject to fee title alienation without the approval of the federal government, or American Indians and Alaska Native villages, groups, or communities in which American Indians and Alaskan Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to American Indians under federal laws specifically applicable to them.

**Interagency agreement.** A Memorandum of Agreement (MOA) between the FHWA and a federal agency establishing procedures for ensuring full cooperation under the ERFO Program and the administration of ERFO funds to repair or reconstruct agencies' federally-owned roads damaged by natural disasters or catastrophic events.

**Life cycle cost analysis.** A systematic quantitative method of assessing the desirability of adding Betterment to an ERFO project. The analysis must be based solely on discounted future ERFO eligible repair costs (both with and without the betterment), and the present cost of the betterment. The analysis cannot include other factors typically included in highway life cycle cost evaluations, such as traffic delay costs, added user costs, motorist safety, maintenance, and economic impacts.

**Major loss.** A loss of materials from a roadway (e.g. gravel surfacing) that results in the operation or usefulness of the roadway being severely diminished to the extent that the roadway is not traversable by all classes of vehicles or the roadway is no longer safe to travel.

**Military installation roads.** A public road that provides access within military installations for which title and maintenance responsibility is vested in the U.S. government.

**Multi-use trails.** Provides individuals with mobility impairments to safely access and share a portion of an all weather engineered trail surface (asphalt, concrete or crushed aggregate material) with other recreational users.

**National Environmental Policy Act (NEPA).** A law enacted in 1969 that set the national environmental policy, established the basis for environmental impact statements, and created the Council on Environmental Quality. NEPA also requires federal agencies to use an interdisciplinary approach in planning and decision making for actions that impact the environment, and the preparation of an environmental impact statement on all major federal actions significantly affecting the human environment.

**Natural disaster.** A sudden and unusual natural occurrence such as a flood, hurricane, severe storm, tidal wave, earthquake, or landslide that causes serious damage over a wide geographical area.

**Notice of Intent letter.** First formal application for ERFO funds submitted by the applicant to the FLH DE (see Appendix C.1).

**Open to public travel.** A road section that is passable by standard passenger vehicles and open to the general public for use without restrictive gates, prohibitive signs, or regulation other than restrictions based on size, weight, or class of registration.

**Parking lots.** Areas that are all weathered engineered surfaced (asphalt, concrete or crushed aggregate material) at locations designated for parking vehicles and staging of recreational equipment providing access to significant points of interest.

**POP.** Program of Projects.

**Park road.** A public road, including a bridge built primarily for pedestrian use but with capacity for use by emergency vehicles, that is located within, or provides access to, an area in the National Park System with title and maintenance responsibilities vested in the U.S. government.

**Parkway.** A public road authorized by an Act of Congress on lands to which title is vested in the U.S. government.

**Permanent work (permanent repair).** Repair or reconstruction to pre-disaster or other allowed geometric and construction standards and related PE and CE in accordance with an approved DSR.

**Preliminary engineering (PE).** The preparation of plans, specifications, and estimates and other related documentation for use to construct repairs.

**Program code.** An alpha-numeric code used by the FHWA and the applicant to track the obligation and expenditure of ERFO funds.

**Program of Projects (POP).** A list of projects either proposed by the applicant or approved by the FLH DE. The approved Program of Projects establishes the maximum amount of ERFO funds to be distributed pending availability.

**Programmed project.** A project in which the construction phase is included in the FLH Program or State Transportation Improvement Plan, or in which the contract plans are being prepared for advertisement within the next three years.

**Public authority.** A federal, state, county, town or township, American Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

**Public lands development roads.** Roads under the control of the Secretary of the Interior that the Secretary determines are of primary importance for the development, protection, administration, and utilization of public lands and resources.

**Public lands highway.** A forest road under the jurisdiction of, and maintained by, a public authority and open to public travel; or any highway through unappropriated or unreserved public lands, non-taxable Indian lands, or other federal reservations under the jurisdiction of, and maintained by, a public authority and open to public travel.

**Public road.** Any road or street under the jurisdiction of and maintained by a public authority and open to public travel.

**Refuge road.** Public roads owned by the Service on national wildlife refuges, national fish hatcheries, and other administrative units such as the National Conservation Training Center, meet the definition of Public Lands Highways.

**Replacement facilities.** Completely reconstructed (vs. repaired) facility built to the following standards:

- a) Bridges built to meet current geometric and construction standards required for the type and volume of traffic it will carry during its design life.
- b) Roads built to current design standards of comparable capacity and character to the destroyed facility.

**Right-of-way.** Land acquired for and devoted to transportation purposes.

**Road Management Objectives (RMOs).** The U.S. Forest Service's official forest plan implementation documents that display the intent and purpose of each road to provide access for the implementation of land and resource management plans. RMOs must be attested to as accurate by a line officer, usually the U.S. Forest Service District Ranger.

**Roadway cross-section.** The finished or proposed finished road section between construction limits.

**Serious damage.** Heavy, major, or unusual damage to a highway which severely impairs the safety, or usefulness of the highway or results in road closure and must be beyond the scope of heavy maintenance.

**Slides.** The removal of rock and mud slides from a Federal road either associated with the overall natural disaster or by itself to provide a safe roadway.

**State transportation agency.** The department, commission, board, or official of any state charged by its laws with the responsibility for transportation facilities.

**Statewide Transportation Improvement Program (STIP).** A staged, multi-year, statewide, intermodal program (list) of transportation projects consistent with the Statewide Transportation Plan including the long-term vision of the state's multi-modal and intermodal transportation system.

**Structurally deficient.** A bridge is structurally deficient when there is an extreme restriction on its load-carrying capacity, or it is frequently over-topped during flooding events causing severe traffic delays.

**Trail.** A general term for a route used exclusively for travel by foot, or trail vehicle (motorized or non-motorized).

**Transportation Improvement Program (TIP).** A staged, multi-year, metropolitan, intermodal program (list) of transportation projects that is consistent with the short-term and long-term vision of the metropolitan area's intermodal transportation system.

**Traveled way.** The portion of the roadway for the movement of vehicles, exclusive of the shoulders.

**Western Area Power Association.** Department of Energy public roads that provide access to western-owned facilities such as transmission lines, switch yards, substations, and related facilities on public lands, including those lands and facilities located on withdrawn public lands, previously under the jurisdiction of the Bureau of Reclamation.

**WFLHD.** Western Federal Lands Highway Division.

## **Appendix B – ERFO Disaster Assistance Service Area Reference Matrix**

<b>ERFO Disaster Assistance Service Area Reference Matrix</b>						
<b>State</b>	<b>Federal Lands Management Agency/Servicing Federal Lands Highway Division Office</b>					
	Bureau of Indian Affairs Department of Defense Army Corps of Engineers	Bureau of Land Management	Forest Service	Bureau of Reclamation	Fish and Wildlife Service	National Park Service
Alabama	EFLHD		EFLHD		EFLHD	EFLHD
Alaska	WFLHD	WFLHD	WFLHD	WFLHD	WFLHD	WFLHD
Arizona	CFLHD	CFLHD	CFLHD	CFLHD	CFLHD	CFLHD
Arkansas	EFLHD		EFLHD		EFLHD	EFLHD
California	CFLHD	CFLHD	CFLHD	CFLHD	CFLHD	CFLHD
Colorado	CFLHD	CFLHD	CFLHD	CFLHD	CFLHD	CFLHD
Connecticut	EFLHD		EFLHD		EFLHD	EFLHD
Delaware	EFLHD		EFLHD		EFLHD	EFLHD
Florida	EFLHD		EFLHD		EFLHD	EFLHD
Georgia	EFLHD		EFLHD		EFLHD	EFLHD
Hawaii	CFLHD	CFLHD	CFLHD	CFLHD	CFLHD	CFLHD
Idaho	WFLHD	WFLHD	WFLHD	WFLHD	WFLHD	WFLHD
Illinois	EFLHD		EFLHD		EFLHD	EFLHD
Indiana	EFLHD		EFLHD		EFLHD	EFLHD
Iowa	EFLHD		EFLHD		EFLHD	EFLHD
Kansas	CFLHD		EFLHD	CFLHD	EFLHD	CFLHD
Kentucky	EFLHD		EFLHD		EFLHD	EFLHD
Louisiana	EFLHD		EFLHD		EFLHD	EFLHD
Maine	EFLHD		EFLHD		EFLHD	EFLHD
Maryland	EFLHD		EFLHD		EFLHD	EFLHD
Massachusetts	EFLHD		EFLHD		EFLHD	EFLHD
Michigan	EFLHD		EFLHD		EFLHD	EFLHD
Minnesota	EFLHD		EFLHD		EFLHD	EFLHD
Mississippi	EFLHD		EFLHD		EFLHD	EFLHD
Missouri	EFLHD		EFLHD		EFLHD	EFLHD
Montana	WFLHD	WFLHD	WFLHD	WFLHD	WFLHD	WFLHD
Nebraska	CFLHD	CFLHD	CFLHD	CFLHD	CFLHD	CFLHD
Nevada	CFLHD	CFLHD	CFLHD	CFLHD	CFLHD	CFLHD
New Hampshire	EFLHD		EFLHD		EFLHD	EFLHD
New Jersey	EFLHD		EFLHD		EFLHD	EFLHD
New Mexico	CFLHD	CFLHD	CFLHD	CFLHD	CFLHD	CFLHD
New York	EFLHD		EFLHD		EFLHD	EFLHD
North Carolina	EFLHD		EFLHD		EFLHD	EFLHD
North Dakota	CFLHD	CFLHD	CFLHD	CFLHD	CFLHD	CFLHD
Ohio	EFLHD		EFLHD		EFLHD	EFLHD
Oklahoma	CFLHD		EFLHD	CFLHD	EFLHD	CFLHD
Oregon	WFLHD	WFLHD	WFLHD	WFLHD	WFLHD	WFLHD
Pennsylvania	EFLHD		EFLHD		EFLHD	EFLHD
Puerto Rico	EFLHD		EFLHD		EFLHD	EFLHD

**ERFO Disaster Assistance Service Area Reference Matrix**

State	Federal Lands Management Agency/Servicing Federal Lands Highway Division Office					
	Bureau of Indian Affairs Department of Defense Army Corps of Engineers	Bureau of Land Management	Forest Service	Bureau of Reclamation	Fish and Wildlife Service	National Park Service
Rhode Island	EFLHD		EFLHD		EFLHD	EFLHD
South Carolina	EFLHD		EFLHD		EFLHD	EFLHD
South Dakota	CFLHD	CFLHD	CFLHD	CFLHD	CFLHD	CFLHD
Tennessee	EFLHD		EFLHD		EFLHD	EFLHD
Texas	CFLHD		EFLHD	CFLHD	CFLHD	CFLHD
Utah	CFLHD	CFLHD	CFLHD	CFLHD	CFLHD	CFLHD
Vermont	EFLHD		EFLHD		EFLHD	EFLHD
Virginia	EFLHD		EFLHD		EFLHD	EFLHD
Virgin Islands	EFLHD		EFLHD		EFLHD	EFLHD
Washington	WFLHD	WFLHD	WFLHD	WFLHD	WFLHD	WFLHD
Washington, DC	EFLHD		EFLHD		EFLHD	EFLHD
West Virginia	EFLHD		EFLHD		EFLHD	EFLHD
Wisconsin	EFLHD		EFLHD		EFLHD	EFLHD
Wyoming Yellowstone Grand Tetons	CFLHD	CFLHD	CFLHD	CFLHD	CFLHD	CFLHD WFLHD WFLHD

***Legend***

EFLHD Eastern Federal Lands Highway Division 21400 Ridgetop Circle Sterling, VA 20166 Phone: (703) 404- 6201	CFLHD Central Federal Lands Highway Division 12300 West Dakota Ave. Lakewood, CO 80228 Phone: (720) 963-3550	WFLHD Western Federal Lands Highway Division 610 East Fifth Street Vancouver, Washington 98661-3801 Phone: (360) 619-7700
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**Appendix C – Correspondence**  
(Samples, Instructions, Tables and Reports)



**C.1 Notice of Intent**

*Letter to be written by the applicant*

Date

Division Engineer  
Federal Highway Administration  
[Division name]  
[Address]  
[City, State, Zip]

This letter is our formal Notice of Intent to apply for emergency relief funds to assist with the needed repairs and reconstruction under provisions of 23 U.S.C. 125. On [date], we conveyed by telephone to [name] our informal Notice of Intent to seek emergency relief funds.

We request a finding on the eligibility of damage to roads and trails that occurred on the [Forest, District, Park, Reservation] in the Counties of [name] in the state of [name].

The damage occurred on [specific date(s)].

Damage included failure over a wide area of:

- [number] bridges
- [number] bridge approaches
- [number] roads

The damage was caused by [*describe the nature and intensity of the disaster event or catastrophic failure*].

The preliminary cost estimate to restore eligible facilities to their pre-event condition is:  
[*list or state dollar amounts*]

Counties covered by a Presidential Disaster Declaration include [*list*].  
Counties covered by a Governor's Proclamation of Emergency include [*list*].

Please ensure that responses to this letter are copied to [name, title, address].

If you have any questions, please contact [name, title] at [telephone number].

Sincerely,

\_\_\_\_\_  
Signature  
[Name]  
[Title]

### **C.1.1 Notice of Intent letter instructions**

First formal application for ERFO funds submitted by the applicant to the FLH DE.  
(*Special note: Please include the FLH ERFO coordinator on your distribution list.*)

Components of the letter should include the following:

- a) Statement of intention to apply for Emergency Relief
- b) Request for a *finding*
- c) Location of damage
- d) Date(s) of occurrence
- e) Types of damage
- f) Estimate of repair/reconstruction costs
- g) General indication of the extra-ordinary character of the natural disturbance
- h) Indication of the extent of areas affected outside the land(s) administered by the applicant
- i) Counties covered by U.S. Presidential Disaster Declaration made under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)

## C.2 Acknowledgment Letter

To be written by FLH DE

Date

[Applicant]

[Address]

[City, State, Zip]

Re:/Subject: Emergency Relief for Federally Owned Roads  
Acknowledgment Letter  
Event Name (2010 June Flooding)  
Region/Unit, State

Dear Applicant:

This letter is to acknowledge receipt of your Notice of Intent dated [date] to apply for Emergency Relief for Federally Owned roads (ERFO) funds under 23 U.S.C. 125 for the repair of roads and trails on the [Forest, District, Park, Reservation].

You should proceed with the performance of the emergency operations necessary to restore essential travel; to protect the remaining facilities; to reduce the extent of damage; to begin preliminary engineering (consisting of surveys, designs, and permanent restoration work that is required as an associated part of the emergency operations) and to use agency forces and/or negotiated equipment rental contracts as necessary to perform the work.

To maintain eligibility of repairs for ERFO funds, you must (1) photograph each site prior to making any repairs to document the extent of damage, and (2) track emergency repair expenditures by damage site.

The eligibility of such repairs for ERFO funds will be contingent upon the issuance of a *positive finding* on the eligibility of the disaster and subsequent approval of the repairs by Western [Central, Eastern] Federal Lands Highway Division, Federal Highway Administration. The basis for the decision will be a Disaster Assessment Report with estimates of cost to repair or reconstruct the damaged routes and (evidence of wide area damage and intensity of the disaster event) or (evidence the failure occurred on a major segment of the road system causing a disastrous impact). [Since your estimated damage is less than the current threshold, other ERFO eligible Federal Land Management Agency or Tribe damage from the same disaster event must meet or exceed the current threshold of \$700,000.]

Submit all information listed in Paragraph 2.1.2a of the ERFO Disaster Assistance Manual. Upon receipt, a representative from this office will contact your field unit representative to make arrangements to review the disaster event damage to determine eligibility and begin preparing the Disaster Assessment Report. If a *positive finding* is made, we will make further arrangements for individual site inspections (if required) to prepare Damage Survey Reports.

You have the option to request the Accelerated Release of ERFO funds which may only be used to offset (reimburse) the eligible costs to agencies for making emergency repairs to re-establish its vital transportation system(s). These funds, subject to availability, may be only transferred after a *positive finding* has been issued.

If you have questions or need further information, please contact the Federal Lands Highway Division ERFO coordinator, [name] at [telephone number].

Sincerely,

\_\_\_\_\_  
Signature

[Name]

[Title]

Cc: Local FHWA div. office; FLH ERFO Program Manager; FHWA ER Program Manager; superintendent of field unit (cc list from notice of intent letter) with copy of incoming to all

### **C.3 Disaster Assessment Report**

*To be written by the Federal Lands Highway Division ERFO coordinator*

The Disaster Assessment Report should include the following elements:

- a) The intensity of the natural disaster or catastrophic failure. In the case of flooding, the Disaster Assessment Report shall include available information regarding high water elevations, stream-gauge data, and rain-gauge data.
- b) Description of the nature, cause, and seriousness of the failure (if a catastrophic failure). Explain if the catastrophic failure was caused by gradual and progressive deterioration or the lack of maintenance. If appropriate, give the names of parties that may have contributed to the failure. Also state if insurance, cost share, or other compensation will pay for any of the repairs.
- c) Dates of the occurrence.
- d) Extent of the affected area.
- e) Description of the damage to federal roads and other roads (Federal-aid highways, state, county, and city).
- f) Copies of Emergency Relief Reports and newspaper articles, as available.
- g) Copies of Presidential Disaster Declarations and Governor Proclamations, as available.
- h) Approximate cost of repairs or reconstruction of the damage.
- i) Photographs of typical damage and appropriate maps showing the location of each area and extent of damage.
- j) A discussion on the impact of the subject damage. For example, a destroyed bridge with limited traffic has little impact, but a bridge serving as the principal access to homes, large tracts of land, or carrying large amounts of traffic will have a significant impact.
- k) A concluding statement indicating a natural disaster or catastrophic failure causing severe damage has (or has not) occurred to federal roads and makes a specific recommendation for a *finding*.

## C.4 Positive Finding Letter

*To be written by FLH DE*

Date

[Applicant name]

[Address]

[City, State, Zip]

Re:/Subject: Emergency Relief for Federally Owned Roads  
Positive Finding Letter  
(ERFO Disaster Number)

Dear Applicant:

Your letter dated [insert date], requested Emergency Relief for Federally Owned roads (ERFO) funds be made available for the repair of [FMLA Unit, State]. The dates of said damage are from [beginning date] to [end date].

An assessment of the [catastrophic failure/natural disaster] has been completed and pursuant to Title 23 U.S.C. Section 125, I find that Emergency Relief funds, subject to availability, will be provided for eligible repairs on the following [Forest, District, Park, Reservation].

The disaster identification number will be [ERFO disaster event number]. Please use this number as the reference for any correspondence.

Arrangements will be made by my staff to assist you in completing joint damage site inspections and reports.

Upon completion of the site inspections, your office must submit a Program of Projects within 90 days from receipt of this letter.

The Program of Projects must include detailed descriptions and estimated costs of emergency repairs and proposed permanent repairs at each damage site. Following its approval by this office, ERFO funds may be requested by your headquarters office in accordance with the established procedures.

ERFO work shall be given prompt attention and priority over non-emergency work and programmed projects. 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 applicant to warrant retention.

If you have questions or need further information, please contact the Federal Lands Highway ERFO Coordinator, [name] at [telephone number].

Sincerely yours,

\_\_\_\_\_  
Signature

[Name]

[Title]

Cc: Local FHWA div. office; FLH ERFO Program Manager; FHWA ER Program Manager; superintendent of field unit with copy of incoming it all.

## **C.5 Negative Finding Letter**

*To be written by the FLH DE*

Date

[Applicant name]

[Address]

[City, State, Zip]

Re:/Subject: Emergency Relief for Federally Owned Roads  
Negative Finding Letter  
Event Name (2010 June Flooding)

Dear Applicant:

Your letter of [date] requested Emergency Relief for Federally Owned Roads (ERFO) funds are made available for the repair of roads on [FMLA Unit, State]. The dates of the damage are from [beginning date] to [ending date].

An assessment of damage has been completed. It was found that certain damage did occur; however, these damages are [give brief explanation such as: considered heavy maintenance; roads are ineligible; threshold not met; does not meet the criteria for serious damage].

If you disagree with this finding, you may appeal as outlined in the ERFO Manual. If you have any questions or need further information, please contact the Federal Lands Highway ERFO Coordinator, [name] at [telephone number].

Sincerely,

\_\_\_\_\_  
Signature

[Name]

[Title]

Cc: Local FHWA Div. Office; Federal Lands Highway ERFO Program Manager; Federal Highway Administration ER Program Manager; Superintendent of Field Unit with copy of incoming to all.



## C.6 Request for Accelerated Release Letter

*To be written by the applicant*

Date

Division Engineer  
Federal Highway Administration  
[Division name]  
[Address]  
[City, State, Zip]

Re:/Subject: Emergency Relief for Federally Owned Roads  
Request for Accelerated Release Letter  
ERFO Disaster Number

We have received your letter of Positive Finding dated [date] and formally request Accelerated Release of ERFO funds to re-establish vital transportation systems as indicated in the table below.

<b>Request for Accelerated Release Letter Table</b>			
<i>Applicant</i>			
<i>Emergency Repair</i>	<i>Location</i>	<i>Funds Requested</i>	<i>Justification</i>
<i>Example: Culvert Replacement</i>	<i>Mile Post 10, Rte 101</i>	<i>\$150,000</i>	<i>Access to private residences culvert washed out</i>
<i>Example: Bridge Replacement</i>	<i>Mile Post 20, Rte 101</i>	<i>\$150,000</i>	<i>Vital link serving local hospital.</i>

If you have questions, please contact [name], [title], at [telephone number].

Sincerely,

\_\_\_\_\_  
Signature  
[Name]  
[Title]

(Special Note: cc: Federal Lands Highway ERFO Coordinator)

## C.7 Accelerated Release Response Letter

To be written by FLH DE

Date

[Applicant name]

[Address]

[City, State, Zip]

Re:/Subject: Emergency Relief for Federally Owned Roads  
 Accelerated Release Response Letter  
 ERFO Disaster Number  
 Event Name (2010 June Flooding)

Dear Applicant:

Your Request for Accelerated Release has been (*approved/disapproved*) as indicated below. These funds (subject to availability) may only be used to offset (reimburse) the eligible costs to Agencies for making emergency repairs to re-establish vital transportation system(s).

Request for Accelerated Release Letter Table					
<i>Applicant</i>				<i>Division Engineer</i>	
<i>Emergency Repair</i>	<i>Location</i>	<i>Funds Requested</i>	<i>Justification</i>	<i>Approved/Disapproved</i>	<i>Reason</i>
<i>Example: Bridge Replacement</i>	<i>Mile Post 10, Rte 101</i>	<i>\$150,000</i>	<i>Access to private residences culvert washed out</i>	<i>Disapproved</i>	<i>Alternate access available.</i>
<i>Example: Bridge Replacement</i>	<i>Mile Post 20, Rte 101</i>	<i>\$150,000</i>	<i>Vital link serving local hospital.</i>	<i>Approved</i>	

This letter provides advice on Accelerated Release of ERFO funds approval only and does not transfer obligation authority or cash to accomplish the approved repairs. Please advise your headquarters that funds, subject to availability, in the amount of [amount] may be formally requested from the Federal Lands Highway ERFO Program Manager.

If you have any questions, please contact [name] at [telephone number].

Sincerely,

Signature

\_\_\_\_\_

[Name]

[Title]

cc: Local FHWA Div. Office; Federal Lands Highway ERFO Program Manager; Federal Highway Administration ER Program Manager; Superintendent of Field Unit with copy of incoming to all.

## C.8 Site Inspection Equipment List

Description	Provider	
	Applicant	Federal Lands Highway
Two maps identifying designated applicant's Federal Roads which clearly depict the damage site.	X	
A copy of the current ERFO Manual.		X
Supply of Damage Survey Report forms.		X
Camera and method to identify the photographed location (e.g., marker and pad, small chalk board and chalk).	X	X
A measuring tape or electronic distance measuring device.	X	X
Clipboard, pencils, pens, stapler, and extra staples, calculator, paper, and straight edge.	X	X
Applicant-owned equipment rental rates (with operator rate included).	X	
Local market, private industry operator labor rates (with operator rate included).	X	
Tabulation of recent average unit contract prices for selected repairs.	X	
Local market, private industry equipment rental rates.	X	
Notebook computer as needed.	X	X
Global Positioning System (GPS) Equipment (optional)		X
Hard hats.	X	
Safety vests.	X	X
First-aid kit.	X	X
Traffic control devices (i.e., cones).	X	
Steeled-toe boots (optional).	X	X
Communication equipment (telephone/radio).	X	X
Clinometer	X	X
Compass	X	X
Spot Light	X	X



### C.9.1 Instructions

- a) **Sheet no. \_\_\_ of \_\_\_:** Sheet numbers are entered to sequence the DSRs.
- b) **DSR No.:** Applicant assigned number given to each DSR containing at least the route number, name of road, and mile post.
- c) **Disaster No.:** The disaster number is provided in the *Positive Finding* letter.
- d) **Applicant:** Enter the name of the field unit (National Forest, National Park, etc.) and Agency name.
- e) **Unit:** Forest Service District Office or U.S. Corp of Engineer project.
- f) **County:** Enter the name of the county in which the damage site is located.
- g) **State:** Enter the two-letter abbreviation of the state in which the damage site is located.
- h) **Inspection date:** Enter the inspection date.
- i) **Location of damage:** Enter the route number, name of the road, and milepost of the damage site in miles or kilometers according to your agency's metric policy.
- j) **ADT:** Enter the average daily traffic for the road.
- k) **Bridge data:** Enter type of bridge and the bridge number.
- l) **Road data:** Enter the road classification, traveled way width, and surface type and thickness; shoulder width, thickness, and surface type and thickness.
- m) **Inventory route number:** Route number from FHWA or BIS road inventory.
- n) **Latitude/longitude:** Geographical position of the site.
- o) **Maintenance Level:** Operational maintenance level (Forest Service only).
- p) **Description and cause of damage:**
  - (1) Provide a clear description about how the damage occurred.
  - (2) Describe the amount of material lost, noting the length, width, and depth.
  - (3) Include the size and condition of the structures.
  - (4) Note any signs of a preexisting condition for slides and slumps such as sealed pavement cracks, vegetation growing in slope cracks, horizontal drains. Note pre-disaster condition of culverts and roadside ditches.
  - (5) Provide a sketch or cross-section drawing with dimensions that illustrates the damage and current roadway width.
- q) **Scope of work:**
  - (1) Describe both emergency and permanent repairs.
  - (2) Provide a brief outline of alternate repair option(s), if considered.
- r) **Cost estimate for emergency repairs:** Show all emergency repairs as well as temporary traffic control devices, warning signs, DSR preparation, NEPA, and erosion control.

- (1) **Quantity:** Enter the number of units of equipment, labor, or materials. Show backup calculations on supplemental sheets.
  - (2) **Unit:** Enter the unit of measures.
  - (3) **Description:** Enter the name of the equipment, labor, and materials.
  - (4) **Unit price:** Enter the unit price for the item.
  - (5) **Cost:** Calculate the COST by multiplying the QUANTITY by the UNIT PRICE.
  - (6) **Force account:** Mark this box if the emergency repairs were done by the applicant's employees.
  - (7) **Contract:** Mark this box if the emergency repairs were done by a contractor.
  - (8) **Total emergency repairs:** Add up the costs for each item and enter the total.
- s) **Cost estimate for permanent repairs:** Use the type of cost items that typically appear in competitively bid construction contracts.

**Special Notes:**

- Do not use units of equipment and labor or more than 10 percent of the permanent repair costs.
  - Do not use lump sum for more than 25 percent of repair costs.
- (1) **Quantity:** Enter the number of units of equipment, labor, or materials.
  - (2) **Unit:** Enter the unit of measure.
  - (3) **Description:** Enter the name of the equipment, labor, and materials.
  - (4) **Unit price:** Enter the unit price for the item.
  - (5) **Cost:** Calculate the COST by multiplying the QUANTITY by the UNIT PRICE.
  - (6) **Force account:** Mark this box if the permanent repairs will be done by the applicant's employees.
  - (7) **Contract:** Mark this box if the permanent repairs will be done by a contractor.
  - (8) **Total permanent repairs:** Total the costs.
- t) **Identify betterment and provide justification in the block provided:** Add separate sheets as needed for life cycle cost analysis calculations.
- u) **Preliminary engineering:** Calculate the cost of preliminary engineering as a percentage of the total permanent repair cost. Average preliminary engineering as a percentage of the total permanent repair cost. Average preliminary engineering costs are 15 percent.
- v) **Construction engineering:** Calculate the cost of construction engineering as a percentage of the total permanent repair cost. Average construction engineering costs are 10 percent.
- w) **Right-of-way:** Enter the cost of acquiring the right-of-way that is necessary to make the repairs. Consider using construction easements whenever possible.
- x) **Other:** Costs other than previously identified.
- y) **Total estimated cost:** Enter the total cost for emergency repairs, permanent repairs, preliminary and construction engineering, and right-of-way. If there is cost sharing on the



road, adjust the total amount to reflect the government's share. ERFO funds can pay only for the government's share of the repair costs.

- z) **Submitted by:** Fill in the applicant's field unit, ERFO coordinator's submitter's name, title, signature, and date.
- aa) **Reviewed by:** Reserved for use by Federal Lands Highway field reviewer. Enter reviewer's name and title; note your opinion of eligibility/ineligibility by marking the appropriate box; sign and date.
- bb) **Recommended by:** Reserved for use by Federal Lands Highway Division ERFO coordinator. Enter the coordinator's name and title; note your opinion of eligibility/ineligibility by marking the appropriate box; sign and date.
- cc) **Combining sites:** One or more eligible damage sites can be reported on one Damage Survey Report (DSR); however, large slides and bridges may not be grouped on one report. Use supplemental sheets as needed.

When multiple sites are combined on one DSR, provide separate supplemental sheets for each site. For each site, provide a description of damage, scope of repairs, and cost estimate. Summarize the cost by site on the first page of the DSR.

## **C.9.2 Supplemental Sheets**

- a) Duplicate the information contained on the original DSR about the site(s) at the top of each supplemental sheet.
- b) The following items are required and should be attached to supplemental sheets:
  - (1) Additional explanations of the damage, scope of work, estimated costs of repairs, betterment justification, etc.
  - (2) Sketches or drawings illustrating the damage or proposed repairs.
  - (3) Photographs of the damage site(s).
  - (4) Map(s) showing the site location(s).
  - (5) Backup calculations for major construction item quantities.

## C.10 Applicant's Program of Projects Letter

*To be written by applicant*

Date

Division Engineer  
 Federal Highway Administration  
 [Division name]  
 [Address]  
 [City, State, Zip]

Re:/Subject: Emergency Relief for Federally Owned Roads  
 Program of Projects Request Letter No: (number)  
 ERFO Disaster Number  
 Event Name (2010 June Flooding)

Dear [Division Engineer name]:

We request (*initial/revised*) Program of Projects approval for roads damaged in disaster [disaster number] which occurred on [date] as a result of a (*natural disaster/catastrophic failure*) under our jurisdiction as summarized below.

Program of Projects Summary Table				
Location of Damage	Organization Performing the Repairs	Previously Approved Amount	Requested Amount	Total Requested Amount
Mt Rainier	NPS	\$0	\$468,949	\$468,949
	WFLHD	\$0	\$176,000	\$176,000
N. Cascades				
<b>Subtotal</b>	NPS	\$0	\$468,949	\$468,949
	WFLHD	\$0	\$176,000	\$176,000
<b>Grand Total</b>		<b>\$0</b>	<b>\$644,949</b>	<b>\$644,949</b>

Attached is our (*initial/revised*) proposed Program of Project's spreadsheet. (*Submit the original Damage Survey Reports if not previously submitted.*)

We request that the [Division name] Federal Lands Highway Division perform the following work (*includes description and site location.*):

If you have any further questions, please contact [name], at [telephone number].

Sincerely,

Signature

\_\_\_\_\_  
 [Name]

[Title]

Enclosure: Program of Projects Table

*(Special Note: Please include the Federal Lands Highway ERFO Coordinator on your distribution list.)*

**C.11 Program of Projects Table**

<b>Program of Projects Table 1</b>								Date:
<b>Disaster Number: AZ2006-1-FS</b>				<b>Agency Sub_Unit: Coronado National Forest</b>				
<b>DAMAGE SURVEY REPORT</b>		<b>DESCRIPTION OF REPAIR</b>	<b>PROGRAM DOLLAR AMOUNT</b>				<b>PERMANENT REPAIR METHOD</b>	
Route Number	MP	Bold/Italic row(s) affected by change	Applicant	Federal Lands Highway Division Office	Other includes Tribe, State, Agency, County	Total	Force Account/Contract/Other	
100A-1	0.00	Repair approach, curb, and ditchline	\$14,581	\$0	\$0	\$14,581	Contract	
5-1	0.00	Repair LWC approaches	\$11,261	\$0	\$0	\$11,261	Contract	
100-1	0	Replace fill, repair bridge in kind	\$92,148	\$0	\$0	\$92,148	Force Account	
100-2	1	Repairs roadway, shoulders and ditch lines	\$20,423	\$0	\$0	\$20,423	Contract	
100-10	0	MSE wall, regrade, repave	\$307,619	\$0	\$0	\$307,619	Contract	
<b>APPROVED PROGRAM TOTAL</b>			<b>\$446,032</b>	<b>\$0</b>	<b>\$0</b>	<b>\$446,032</b>		

<b>Revision/Change(s)</b>							
100A-1	0.00	Repair approach, curb, and ditchline	\$0	\$0	\$0	\$0	Contract
5-1	0.00	Repair LWC approaches	\$0	\$0	\$0	\$0	Contract
100-1	0	Replace fill, repair bridge in kind	\$0	\$0	\$0	\$0	Force Account
100-2	1	Repairs roadway, shoulders and ditch lines	\$0	\$0	\$0	\$0	Contract
100-10	0	MSE wall, regrade, repave	\$0	\$0	\$0	\$0	Contract
<b>APPROVED PROGRAM TOTAL</b>			<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	

<b>Revised Program of Projects</b>							
100A-1	0.00	Repair approach, curb, and ditchline	\$14,581	\$0	\$0	\$14,581	Contract
5-1	0.00	Repair LWC approaches	\$11,261	\$0	\$0	\$11,261	Contract
100-1	0	Replace fill, repair bridge in kind	\$92,148	\$0	\$0	\$92,148	Force Account
100-2	1	Repairs roadway, shoulders and ditch lines	\$20,423	\$0	\$0	\$20,423	Contract
100-10	0	MSE wall, regrade, repave	\$307,619	\$0	\$0	\$307,619	Contract
<b>APPROVED PROGRAM TOTAL</b>			<b>\$446,032</b>	<b>\$0</b>	<b>\$0</b>	<b>\$446,032</b>	

## C.12 Program of Projects Approval Letter

To be written by the Federal Lands Highway

Date

[Applicant name]

[Address]

[City, State, Zip]

Re:/Subject: Emergency Relief for Federally Owned Roads  
Program of Projects Approval Letter No: (number)  
ERFO Disaster Number  
Event Name (2010 June Flooding)

Dear Applicant:

The proposed Program of Projects submitted with your letter dated [date], is approved as indicated below.

Program of Projects Summary Table				
Location of Damage	Organization Performing the Repairs	Previously Approved Amount	Current Approved Amount	Total Approved Amount
Mt Rainier	NPS	\$0	\$468,949	\$468,949
	WFLHD	\$0	\$176,000	\$176,000
N. Cascades				
Subtotal	NPS	\$0	\$468,949	\$468,949
	WFLHD	\$0	\$176,000	\$176,000
<b>Grand Total</b>		<b>\$0</b>	<b>\$644,949</b>	<b>\$644,949</b>

We are pleased to advise you that Federal Lands Highway is available to assist your agency per your request to perform work dated [date]. A representative from our office will be in contact with your field unit representative to coordinate this effort.

Federal Highway Administration approval is required at stages *Approval of Plans, Specifications, and Estimates packages; Concurrence in rejection of bids; and Concurrence in award.*

This letter provides advice on program approval only and does not transfer obligation authority or cash to accomplish approved repairs. Funds, subject to availability, in the amount of [amount] may be requested on an as-needed/written request basis. Please advise your office headquarters to formally request these funds from the Federal Lands Highway ERFO Program Manager. **[Please note: Transfer of ERFO funds will be withheld if prior year Disaster Status Reports have not been submitted to the Federal Lands Highway Division Engineer.]**

We will be requesting our Washington Headquarters to arrange the transfer of obligation authority on an as-needed/written request basis in the amount of [amount] to [Division name] Federal Lands Highway Division.

ERFO work shall be given prompt attention and priority over non-emergency work and programmed projects. Projects not under construction by the end of fiscal year XXXX will be withdrawn from the approved POP unless a suitable justification is provided to warrant a time extension.

If you have questions or need further information, please contact the Federal Lands Highway Division ERFO Coordinator, [name], at [telephone number].

Sincerely,

\_\_\_\_\_  
Signature  
[Name]  
[Title]

cc: Local FHWA Div. Office; Federal Lands Highway ERFO Program Manager; Federal Highway Administration ER Program Manager; Superintendent of Field Unit with copy of incoming to all.



### **C.13 Request for ERFO Funds**

*To be written by the applicant*

Date

[Applicant name]

[Address]

[City, State, Zip]

Federal Lands Highway Associate Administrator  
Federal Highway Administration  
400 Seventh Street SW – HFL-1  
Washington, DC 20590

Re:/Subject: Emergency Relief for Federally Owned Roads  
Request for ERFO Funds Letter No: (number)  
ERFO Disaster Number  
Event Name (2010 June Flooding)

Dear (ERFO Program Manager):

This is to request ERFO funds in the amount of [dollars] for disaster [number] which will be obligated in fiscal year [year].

Thank you for your assistance in this matter. If there are any questions, please contact [name] at [telephone number].

Sincerely,

Signature

[Name]

[Title]

Enclosure: Annual ERFO Funds Request Table (see C.18)

**Special Note:** include HFPD-5 in the *cc:* lines

## C.14 Transfer of ERFO Funds

*To be written by the Federal Lands Highway ERFO*

Date

HFPD5-[month and FY]-[Program Code][FLMA Letter No. sequence]\*[Tracking No.]

Refer to: HFPD-5

[Applicant name]

[Applicant Title]

[FLMA]

[Address]

[City, State, Zip]

Re:/Subject: Emergency Relief for Federally Owned Roads  
Allocation of ERFO Funds Letter No: (number)

Dear Applicant:

The purpose of this letter is to provide to [FLMA] funds made available under the Emergency Relief for Federally Owned Roads (ERFO) Program.

Based upon information provided by your staff, this office has determined that a total of [amount] in [Program Code] needs to be allocated. Therefore, we are allocating [amount] in [Program Code] Contract Authority to the disasters shown in Table A.

**(OPTIONAL PARAGRAPH—BUDGET AUTHORITY)**

A Federal Highway Administration Advice of Funds and an 1151 Non-expenditure Transfer for the amount of the allocation will be processed by our Office of Budget and Finance. Please bear in mind that obligations cannot be incurred until the 1151 Non-expenditure Transfer has been posted by Treasury and all activity against this funding must be reported separately from Federal-aid Program funding on the SF-133.

**(OPTIONAL PARAGRAPH—CONTRACT AUTHORITY)**

The Federal Highway Administration (FHWA) Office of Budget will issue a completed FHWA Form 370 confirming the allocation of funding shortly. Please continue to report ERFO obligations on the SF-133, separately from other Highway Trust Funds.

If there are any questions, please contact [ERFO Program Manager] at [telephone number].

Sincerely yours,

Signature

\_\_\_\_\_

[Name]

[Title]

Enclosure must include Table for both Divisions and FLMA's

cc: Local FHWA Div. Office; Federal Lands Highway ERFO Program Manager; Federal Highway Administration ER Program Manager; Superintendent of Field Unit with copy of incoming to all.

## C.15 Allocation Memorandum to a Federal Lands Highway Division

*To be written by the ERFO Program Manager*

HFPD5-[month and FY]-[Program Code][FLMA Letter No. sequence]\*[Tracking No.]

Subject: **ACTION:** Emergency Relief for Federally  
Owned Roads (ERFO) Funding  
[Fiscal Year], Allocation

Date:

From: Director, Office of Program Development

In Reply Refer To: [HFPD5]

To: Federal Lands Highway Division Engineers

This memorandum allocates [amount] to Disasters [ERFO disaster number] [amount] and [ERFO disaster number] [amount] for approved repairs in ERFO funds, PC-[code], as shown on the attached Table A. The accounting flex field information is as follows: Fund, [identification], Budget Year, 0000, and BPAC, [identification].

By copy of this memorandum, we are requesting the Office of Budget and Finance to make the appropriate adjustments in the Financial Management Information System for [contract or budget] authority and obligation limitation, in accordance with Table A.

If you have any questions regarding this memorandum, please contact [name], ERFO Program Engineer, at [telephone number].

Attachment

**Special Note:** Include ERFO Coordinators in “cc” lines.

## **C.16 Request for Time Extension**

*To be written by the Applicant*

Date

Division Engineer  
Federal Highway Administration  
[Division name]  
[Address]  
[City, State, Zip]

Re:/Subject: Emergency Relief for Federally Owned Roads  
Time Extension Request Letter No: (number)  
ERFO Disaster Number  
Event Name (2010 June Flooding)

Dear [Division Engineer name]:

The [Applicant name] requests a [time] extension for approved ERFO site [site location] which resulted from disaster number [disaster number].

Please see the attached table for justification statement and dates of major milestones.

If you have any further questions, please contact [name], [title], at [telephone number].

Sincerely,

Signature

[Name]  
[Title]

Attachment

### C.16.1 Request for Time Extension Table

To be written by the applicant

Damage Survey Report Number	Justification statement	Project Status and Timeline
<i>Example: BLU 2300-4.9</i>	<i>Example: We were delayed from accessing this site because of damage to county road, Route 6, that occurred during the OR 2007-2-BIA disaster. The damage at M.P. 1.0 has severely damaged the bridge abutment and it will not be repaired until later this fall. Route 2300 is a well maintained road that is the primary access to the landfill.</i>	<i>Example: (Provide completion/planned completion dates for the following deliverables) Applicant's POP Letter: [date] Topographic Survey and Mapping: [date] Environmental Resource Surveys: [date] Preliminary Design: [date] Draft NEPA Document: [date] Biological Assessment/Opinion: [date] Final NEPA (ROD, FONSI, CE): [date] Final PS&amp;E: [date] Contract Award: [date] Contract Completion: [date]</i>

### C.16.2 Instructions for Time Extension Table

- a) Submit justification for each DSR
- b) Provide description of why the project was not completed on time. Provide description of primary purpose and need of the road.
- c) Provide dates of major project milestones (actual/projected) as listed below to demonstrate the project was advanced on a priority basis and that a time extension is justified
  - (1) POP Letter date (Applicant's first submittal)
  - (2) Topographic survey and mapping date
  - (3) Environmental survey completion dates
  - (4) Preliminary design date
  - (5) Engineering recommendation dates (Geotechnical, Hydraulic, Structures, etc.)
  - (6) Draft NEPA document date
  - (7) Biological Assessment and Opinion dates
  - (8) Final NEPA document (ROD, FONSI, CE) date
  - (9) Final PS&E date
  - (10) Advertisement date
  - (11) Construction award date
  - (12) Construction completion date

## **C.17 Approval of Request for Time Extension**

*To be written by the Federal Lands Highway Division Engineer*

Date

[Applicant name]

[Address]

[City, State, Zip]

Re:/Subject: Emergency Relief for Federally Owned Roads  
Approval of Request for Time Extension Letter Number : \_\_\_\_  
ERFO Disaster Number  
Event Name (2010 June Flooding)

Dear Applicant:

We received your letter dated [date] requesting a time extension for Emergency Relief for Federally Owned Roads (ERFO) projects damaged in the [disaster number] disaster.

Based upon the information you presented, approval/disapproval is indicated on the attached table. The projects must be under contract as indicated on the attached table in order to ensure continued eligibility of ERFO funds.

Sites not eligible for time extensions should be removed from future ERFO fund requests. Any expenditure of ERFO funds on these sites after the approved completion date is prohibited. In addition, expenditure of any other program/agency funds after that date will not be reimbursed under the ERFO Program.

If you have questions or need further information, please contact the Federal Lands Highway Division ERFO coordinator, [name] at [telephone number].

Sincerely,

\_\_\_\_\_  
Signature

[Name]

[Title]

Attachment

cc: Local FHWA Div. Office; ERFO Program Manager, Federal Highway Administration ER Program Manager, superintendent of field unit with copy of incoming to all.

**C.17.1 Time Extension Table**

*To be written by the Federal Lands Highway Division Engineer*

<b>Damage Survey Report Number</b>	<b>New Approved Contract award Date</b>	<b>Rationale for Decision</b>
<i>Example: BLU 2300-4.9</i>	<i>Example: 9/30/2012</i>	<i>Example: The time extension is approved based on another eligible ERFO disaster delaying the repair of this site. We expect that the repair of this site will be accomplished as soon as access across the county bridge is restored.</i>



**C.18 Annual ERFO Funds Request**

*To be written by the Applicant*

<b>ANNUAL ERFO FUNDS REQUEST</b>						
<b>Agency Administering ERFO Repairs</b>	<b>Disaster Number</b>	<b>Reimbursement (Payback) Funds</b>		<b>(3) Amount of Funds needed for Ongoing Projects</b>	<b>(4) Amount of Funds needed for this Fiscal Year</b>	<b>Totals</b>
		<b>(1) Agency Funds</b>	<b>(2) Federal Lands Highway</b>			
		\$	\$	\$	\$	\$
		\$	\$	\$	\$	\$
		\$	\$	\$	\$	\$
		\$	\$	\$	\$	\$
		\$	\$	\$	\$	\$
<b>Total</b>		\$	\$	\$	\$	\$
<b>Prepared by:</b> _____ <b>Date:</b> _____ <b>Phone:</b> _____						
<p>(1) Amount of Agency funds used on repairs to be repaid by ERFO.</p> <p>(2) Amount of Federal Lands Highway Program funds used on repairs to be repaid by ERFO.</p> <p>(3) Amount of ERFO funds needed for Construction Engineering (CE)/Contract Modifications (CM) for active/ongoing construction projects.</p> <p>(4) The amount of funds needed for design, advertisement, award, and construction engineering for new projects this fiscal year.</p>						

## **C.19 Request for Closeout**

*To be written by the Applicant*

Date

Division Engineer  
Federal Highway Administration  
[Division name]  
[Address]  
[City, State, Zip]

Re:/Subject: Emergency Relief for Federally Owned Roads  
Request for Closeout Letter Number : \_\_\_\_  
ERFO Disaster Number  
Event Name (2010 June Flooding)

Dear [Division Engineer name]:

The [Applicant name] requests a [final/partial] closeout of approved ERFO site(s) which resulted from disaster number [number]. The site(s), shown on the attached Disaster Closeout Report, have been repaired according to the description of repairs on the most recent DSR and the approved Program of Projects (except as noted). The total expenditure to repair all damage was [amount].

If you have any further questions, please contact [name], [title], at [telephone number].

Sincerely,

Signature

[Name]

[Title]

Attachment: Disaster Status Report

**C.20 Disaster Status Report**

*To be written by the Applicant*

**Note:** As a status report, this report is due to the ERFO coordinator by October 15 of each year until the disaster is closed out. If reports are not received, funding may be withheld.

As a closeout report, this report is due to the ERFO coordinator at the time of closeout submittal.

<b>DISASTER STATUS REPORT</b>												
Date: _____			Disaster Number: _____				Sub-Unit: _____					
LOCATION DAMAGE SURVEY REPORT NUMBER	DESCRIPTION OF APPROVED REPAIR	APPROVED ESTIMATED COSTS				CURRENT OBLIGATIONS/ FINAL EXPENDITURES				(Anticipated/ Actual) Contract Award Date	(Anticipated/ Actual) Construction Completion Date	Date Closed
		Applicant	Federal Lands Highway Division	Other	TOTAL	Applicant	Federal Lands Highway Division	Other	TOTAL			
<i>Example: BLU 2300-4.9</i>	<i>Reconstruct roadway embankment and replace two culverts</i>	\$56,000			\$56,000					9/24/1997	10/30/2003	
<b>TOTAL</b>												
<i>Example</i>		\$56,000			\$56,000					9/24/1997	10/30/2003	

The submitted expenditures are the actual costs incurred to complete only approved eligible repairs. Attach a separate sheet to explain any deviations.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

## C.21 Closeout Letter

*To be written by the Federal Lands Highway Division Engineer*

Date

[Applicant name]

[Address]

[City, State, Zip]

Re:/Subject: Emergency Relief for Federally Owned Roads  
 Program of Projects Letter [number]  
 (*Partial/Final*) Disaster Closeout  
 ERFO Disaster Number  
 Event Name (2010 June Flooding)

Dear Applicant:

We received your notification that (*all/a portion of the*) eligible ERFO activities associated with [disaster number] have been completed.

The revised total program and authorized expenses for eligible ERFO repairs for this disaster is [amount]. The previously approved program amount of [amount] was (*Overrun/Underrun*) by [amount].

Program of Projects Summary Table				
Location of Damage	Organization Performing the Repairs	Previously Approved Amount	Current Approved Amount	Total Approved Amount
Mt Rainier	NPS	\$0	\$468,949	\$468,949
	WFLHD	\$0	\$176,000	\$176,000
N. Cascades				
<b>Subtotal</b>	NPS	\$0	\$468,949	\$468,949
	WFLHD	\$0	\$176,000	\$176,000
<b>Grand Total</b>		<b>\$0</b>	<b>\$644,949</b>	<b>\$644,949</b>

We have conducted a final review of the damage repair and supporting records and have discussed our findings with [name] from your office on [date]. As a result of our review, we find all repairs to be accomplished in reasonably close conformity to the approved program. We hereby grant final acceptance of the subject damage repairs. The expertise and diligence of your office and field personnel in restoring damaged roadways to stable and serviceable conditions through innovative and cost-savings techniques are appreciated.

By copy of this letter we are advising our Washington Headquarters that the subject ERFO program [disaster number] has received final inspection and acceptance at the final approved program amount of [amount] and should begin final fund reconciliation with your headquarters. If you have any questions, please contact [name] at [telephone number].

Sincerely,

\_\_\_\_\_  
Signature

[Name]

[Title]

cc: Local FHWA Div. Office; Federal Lands Highway ERFO Program Manager; Federal Highway Administration ER Program Manager; Superintendent of Field Unit with copy of incoming to all.

## ***Appendix D – Law and Regulation***

### **D.1 Select Provisions of 23 U.S.C., Highways, Related to the ERFO Program**

#### Sec. 101. Definitions.

- a) Definitions. In this title, the following definitions apply:
- (1) County. The term "county" includes corresponding units of government under any other name in States that do not have county organizations and, in those States in which the county government does not have jurisdiction over highways, any local government unit vested with jurisdiction over local highways.
  - (2) Federal-aid highway. The term "Federal-aid highway" means a highway eligible for assistance under this chapter other than a highway classified as a local road or rural minor collector.
  - (3) Federal-aid system. The term "Federal-aid system" means any of the Federal-aid highway systems described in section 103.
  - (4) Federal lands highway. The term "Federal lands highway" means a forest highway, public lands highway, park road, parkway, refuge road, and Indian reservation road that is a public road.
  - (5) Forest development roads and trails. The term "forest development roads and trails" means forest roads and trails under the jurisdiction of the Forest Service.
  - (6) Forest highway. The term "forest highway" means a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel.
  - (7) Forest road or trail. The term "forest road or trail" means a road or trail wholly or partly within, or adjacent to, and serving the National Forest System that is necessary for the protection, administration, and utilization of the National Forest System and the use and development of its resources.
  - (8) Highway. The term "highway" includes (A) a road, street, and parkway; (B) a right-of-way, bridge, railroad-highway crossing, tunnel, drainage structure, sign, guardrail, and protective structure, in connection with a highway; and (C) a portion of any interstate or international bridge or tunnel and the approaches thereto, the cost of

which is assumed by a State transportation department, including such facilities as may be required by the United States Customs and Immigration Services in connection with the operation of an international bridge or tunnel.

- (9) Indian reservation road. The term "Indian reservation road" means a public road that is located within or provides access to an Indian reservation or Indian trust land or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government, or Indian and Alaska Native villages, groups, or communities in which Indians and Alaskan Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians.
- (10) Maintenance. The term "maintenance" means the preservation of the entire highway, including surface, shoulders, roadsides, structures, and such traffic-control devices as are necessary for safe and efficient utilization of the highway.
- b) Park road. The term "park road" means a public road, including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles, that is located within, or provides access to, an area in the National Park System with title and maintenance responsibilities vested in the United States.
- c) Parkway. The term "parkway", as used in Chapter 2 of this title, means a parkway authorized by Act of Congress on lands to which title is vested in the United States.
- d) Public authority. The term "public authority" means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.
- e) Public lands development roads and trails. The term "public lands development roads and trails" means those roads and trails that the Secretary of the Interior determines are of primary importance for the development, protection, administration, and utilization of public lands and resources under the control of the Secretary of the Interior.
- f) Public lands highway. The term "public lands highway" means a forest road under the jurisdiction of and maintained by a public authority and open to public travel or any highway through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations under the



- jurisdiction of and maintained by a public authority and open to public travel.
- g) Public road. The term "public road" means any road or street under the jurisdiction of and maintained by a public authority and open to public travel.
  - h) Refuge road. The term "refuge road" means a public road that provides access to or within a unit of the National Wildlife Refuge System and for which title and maintenance responsibility is vested in the United States Government.

23 U.S.C. Sec. 120. Federal share payable

Emergency Relief - The Federal share payable on account of any repair or reconstruction provided for by funds made available under Section 125 of this title on account of any project on a Federal-aid highway, including the Interstate System, shall not exceed the Federal share payable on a project on such system as provided in subsections (a) and (b) of this section; except that (1) the Federal share payable for eligible emergency repairs to minimize damage, protect facilities, or restore essential traffic accomplished within 180 days after the actual occurrence of the natural disaster or catastrophic failure may amount to 100 percent of the costs thereof; and (2) the Federal share payable on account of any repair or reconstruction of forest highways, forest development roads and trails, park roads and trail, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads may amount to 100 percent of the cost thereof. The total cost of a project may not exceed the cost of repair or reconstruction of a comparable facility. As used in this section with respect to bridges and in Section 144 of this title, "a comparable facility" shall mean a facility which meets the current geometric and construction standards required for the types and volume of traffic which such facility will carry over its design life.

Sec. 125. Emergency relief

- (a) General Eligibility. Subject to this section and Section 120, an emergency fund is authorized for expenditure by the Secretary for the repair or reconstruction of highways, roads, and trails, in any part of the United States, including Indian reservations, that the Secretary finds have suffered serious damage as a result of:
  - (1) natural disaster over a wide area, such as by a flood, hurricane, tidal wave, earthquake, severe storm, or landslide; or
  - (2) catastrophic failure from any external cause.
- (b) Restriction on Eligibility. In no event shall funds be used pursuant to this section for the repair or reconstruction of bridges that have been

permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration.

- (c) Funding. Subject to the following limitations, there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to establish the fund authorized by this section and to replenish it on an annual basis:
- (1) Not more than \$100,000,000 is authorized to be obligated in any one fiscal year commencing after September 30, 1980, to carry out the provisions of this section; except that, if in any fiscal year the total of all obligations under this section is less than the amount authorized to be obligated in such fiscal year, the unobligated balance of such amount shall remain available until expended and shall be in addition to amounts otherwise available to carry out this section each year.
  - (2) Pending such appropriation or replenishment, the Secretary may obligate from any funds heretofore or hereafter appropriated for obligation in accordance with this title, including existing Federal-aid appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized. Funds obligated under this paragraph shall be reimbursed from such appropriation or replenishment.
- (d) The Secretary may expend funds from the emergency fund herein authorized for the repair or reconstruction of highways on Federal-aid highways in accordance with the provisions of this chapter: Provided, that (1) obligations for projects under this section, including those on highways, roads, and trails mentioned in subsection (e) of this section, resulting from a single natural disaster or a single catastrophic failure in a State shall not exceed \$100,000,000, and (2) the total obligations for projects under this section in any fiscal year in the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not exceed \$20,000,000.

Notwithstanding any provision of this chapter, actual and necessary costs of maintenance and operation of ferryboats providing temporary substitute highway traffic service, less the amount of fares charged, may be expended from the emergency fund herein authorized on Federal-aid highways.

Except as to highways, roads, and trails mentioned in subsection (e) of this section, no funds shall be so expended unless the Secretary has received an application therefore from the State highway department,

and unless an emergency has been declared by the Governor of the State and concurred in by the Secretary, except that if the President has declared such emergency to be a major disaster for the purposes of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), concurrence of the Secretary is not required.

- (e) The Secretary may expend funds from the emergency fund herein authorized, either independently or in cooperation with any other branch of the Government, State agency, organization, or person, for the 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, and Indian reservation roads, whether or not such highways, roads, or trails are on any of the Federal-aid highways.
- (f) Treatment of Territories. For the purposes of this section, the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands shall be considered to be States and parts of the United States, and the chief executive officer of each territory shall be considered to be Governor of a State.

## **D.2 Title 23, Code of Federal Regulations**

### **PART 668 EMERGENCY RELIEF PROGRAM**

Subpart B Procedures for Federal Agencies for Federal Roads – Authority granted under: 23 U.S.C. 101, 120(e), 125 and 315; 49 CFR 1.48(b).

#### **§ 668.201 Purpose.**

To establish policy, procedures, and program guidance for the administration of emergency relief to Federal agencies for the repair or reconstruction of Federal roads which are found to have suffered serious damage by a natural disaster over a wide area or by catastrophic failure. [43 FR 59485, 12/21/1978]

#### **§668.203 Definitions.**

- (a) Applicant. Any Federal agency which submits an application for emergency relief and which has authority to repair or reconstruct Federal roads.
- (b) Betterments. Added protective features, such as, the relocation or rebuilding of roadways at a higher elevation or the extension, replacement or raising of bridges, and added facilities not existing prior

to the natural disaster or catastrophic failure such as additional lanes, upgraded surfacing, or structures.

- (c) Catastrophic failure. The sudden failure of a major element or segment of a Federal road which is not primarily attributable to gradual and progressive deterioration or lack of proper maintenance. The closure of a facility because of imminent danger of collapse is not in itself a sudden failure.
- (d) Emergency repairs. Those repairs, including necessary preliminary engineering, construction engineering, and temporary traffic operations, undertaken during or immediately after a natural disaster or catastrophic failure (1) to restore essential travel, (2) to protect remaining facilities, or (3) to minimize the extent of damage.
- (e) Federal roads. Forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads as defined under 23 U.S.C. 101(a).
- (f) Finding. A letter or other official correspondence issued by the Direct Federal Division Engineer (Direct Federal Division Engineer) to a Federal agency giving notification that pursuant to 23 U.S.C. 125, Federal roads have (Affirmative Finding) or have not (Negative Finding) been found to have suffered serious damage as the result of (1) a natural disaster over a wide area, or (2) a catastrophic failure.
- (g) Natural disaster. An unusual natural occurrence such as a flood, hurricane, severe storm, tidal wave, earthquake, or landslide which causes serious damage.
- (h) Permanent work. Repair or reconstruction to pre-disaster or other allowed geometric and construction standards and related Preliminary Engineering and Construction Engineering.
- (i) Direct Federal Division Engineer. Director of one of the Direct Federal field offices located in Vancouver, WA; Denver, CO; and Arlington, VA. [43 FR 59485, Dec. 12, 1978, as amended at 47 FR 10529, Mar. 11, 1982].

§ 668.205 Policy.

- (a) This emergency relief program is intended to pay the unusually heavy expenses in the repair and reconstruction of Federal roads resulting from damage caused by natural disasters over a wide area or catastrophic failures.

- (b) Emergency relief work shall be given prompt attention and priority over non-emergency work.
- (c) Permanent work shall be done by contract awarded by competitive bidding through formal advertising, where feasible.
- (d) It is in the public interest to perform emergency repairs immediately and prior approval or authorization from the Direct Federal Division Engineer is not required. Emergency repairs may be performed by the method of contracting (advertised contract, negotiated contract, or force account) which the applicant or the Federal Highway Administration (where Federal Highway Administration performs the work) determines to be most suited for this work.
- (e) Emergency relief projects shall be promptly constructed. Projects not under construction by the end of the second fiscal year following the year in which the disaster occurred will be reevaluated by the Direct Federal Division Engineer and will be withdrawn from the approved Program of Projects unless suitable justification is provided by the applicant to warrant retention.
- (f) The Finding for natural disasters will be based on both the extraordinary character of the natural disturbance and the wide area of impact. Storms of unusual intensity occurring over a small area do not meet these conditions.
- (g) Diligent efforts shall be made to recover repair costs from the legally responsible parties to reduce the project costs where highway damages are caused by ships, barge tows, highway vehicles, vehicles with illegal loads, and similar improperly controlled objects or events.
- (h) Emergency funds shall not duplicate assistance under another Federal program or compensation from insurance or any other source. Where other funding compensates for only part of an eligible cost, emergency relief funding can be used to pay the remaining costs. [43 FR 59485, Dec. 12, 1978, as amended at 47 FR 10529, Mar. 11, 1982].

§ 668.207 Federal share payable from emergency fund.

The Federal share payable under this program is 100 percent of the cost.  
[43 FR 59485, Dec. 12, 1978]

§ 668.209 Eligibility of work.

- (a) Permanent work must have prior program approval in accordance with paragraph (a) of § 668.215 unless such work is performed as emergency repairs.
- (b) Emergency repairs, including permanent work performed incidental to emergency repairs, and all Preliminary Engineering may begin immediately and do not need prior program approval. Reimbursement shall be contingent upon the work ultimately being approved in accordance with the requirements of paragraph (a) of § 668.215.
- (c) To qualify for emergency relief, the damaged or destroyed road or trail must be designated as a Federal road.
- (d) Replacement highway facilities are appropriate when it is not practical and economically feasible to repair or restore a damaged element to its preexisting condition. Emergency relief is limited to the cost of a new facility constructed to current design standards of comparable capacity and character to the destroyed facility. With respect to a bridge, a comparable facility is one which meets current geometric and construction standards for the type and volume of traffic it will carry during its design life.
- (e) Emergency relief funds may participate to the extent of eligible repair costs when proposed projects contain betterments or other work not eligible for emergency funds.
- (f) Work may include:
  - (1) Repair to, or reconstruction of, seriously damaged highway elements for a distance which would be within normal highway right-of-way limits, including necessary clearance of debris and other deposits in drainage courses, where such work would not be classed as heavy maintenance.
  - (2) Restoration of stream channels when the work is necessary for the satisfactory operation of the federal road. The applicant must have responsibility and authority for maintenance and proper operation of stream channels restored.
  - (3) Betterments where clearly economically justified to prevent future recurring damage. Economic justification acceptable to the Direct Federal Division Engineer must weigh the cost of such betterments against the risk of eligible recurring damage and the cost of future repair.

- (4) Actual Preliminary Engineering and Construction Engineering costs on approved projects.
- (5) Emergency repairs. [43 FR 59485, Dec. 12, 1978, as amended at 47 FR 10529, Mar. 11, 1982].

§ 668.211 Notification, damage assessment, and finding.

- (a) Notification. During or as soon as possible after a natural disaster or catastrophic failure, each applicant will notify the Direct Federal Division Engineer of its tentative intent to apply for emergency relief and request that a Finding be made.
- (b) Acknowledgment. The Direct Federal Division Engineer will promptly acknowledge the notification and briefly describe subsequent damage assessment, Finding, and application procedures.
- (c) Field report. The applicant shall cooperate with the Direct Federal Division Engineer to promptly make a field survey of overall damage and in the preparation of a field report.
- (d) Finding. Using the field report and other information deemed appropriate, the Direct Federal Division Engineer will promptly issue a Finding, and if an Affirmative Finding is made, establish the date after which repair or reconstruction will be considered for emergency relief, and note the dates of the extraordinary natural occurrence or catastrophic event responsible for the damage or destruction.
- (e) Detailed site inspections.
  - (1) If an Affirmative Finding is made, the applicant shall cooperate with the Direct Federal Division Engineer to make a detailed inspection of each damage site.
  - (2) If it appears certain an Affirmative Finding will be made, the Direct Federal Division Engineer may elect to make these site inspections at the time damage is initially assessed pursuant to paragraph (c) of this section.
- (f) The Applicant shall make available to Federal Highway Administration personnel conducting damage survey and estimate work maps depicting designated Federal roads in the affected area. [43 FR 59485, Dec. 12, 1978, as amended at 47 FR 10529, Mar. 11, 1982].



§ 668.213 Application procedures.

- (a) Based on the detailed site inspections and damage estimates prepared pursuant to paragraph (e) of § 668.211, the Applicant will submit an application in the form of a letter to the Direct Federal Division Engineer which shall include a list of projects for which emergency relief is requested. The application shall be submitted within three (3) months after an Affirmative Finding.
- (b) The list of projects shall include emergency repairs, Preliminary Engineering, and permanent work, and provide for each project a location, length, project number, type of damage, description of work with a separate breakdown for betterments including a justification for those intended for emergency relief funding, proposed method of construction, estimated cost, and any other information requested by the Direct Federal Division Engineer.
- (c) If the initial list of projects is incomplete, a subsequent list(s) of projects shall be forwarded to the Direct Federal Division Engineer for approval consideration as soon as possible. [43 FR 59485, Dec. 12, 1978, as amended at 47 FR 10529, Mar. 11, 1982].

§ 668.215 Programming and project procedures.

- (a) The Direct Federal Division Engineer will advise the applicant in writing which projects in the application, or in any subsequent submittals pursuant to paragraph (c) of § 668.213 are approved, including any approval conditions. Approved projects shall constitute the approved Program of Projects (program).
- (b) Plans, specifications, and estimates shall be developed based on work identified in the approved program.
- (c) The Direct Federal Division Engineer will approve PS&Es, concur in the award of contracts or the rejection of bids, determine that construction by the force account method is in the public interest, and accept completed work in accordance with interagency procedures established by the Direct Federal Division Engineer.
- (d) The applicant shall notify the Direct Federal Division Engineer in writing of the semi-annual status and completion of each emergency relief project constructed by applicant forces. [43 FR 59485, Dec. 12, 1978, as amended at 47 FR 10529, Mar. 11, 1982].

## ***Appendix E – Designated National Scenic and Historic Trails National Trails System Act of 1968***

### **E.1 National Scenic Trails**

- a) Appalachian National Scenic Trails (NST)
- b) Continental Divide NST
- c) Florida NST
- d) Ice Age NST
- e) Natchez NST
- f) North Country NST
- g) Pacific Crest NST
- h) Potomac Heritage NST

### **E.2 National Historic Trails**

- a) Ala Kahakai National Historic Trails (NHT)
- b) California NHT
- c) Captain John Smith Chesapeake NHT
- d) El Camino Real de los Tejas NHT
- e) El Camino Real de Tierra Adentro NHT
- f) Iditarod NHT
- g) Juan Bautista de Anza NHT
- h) Lewis and Clark NHT
- i) Mormon Pioneer NHT
- j) Nez Perce (Nee-Me-Poo) NHT
- k) Old Spanish NHT
- l) Oregon NHT
- m) Overmountain Victory NHT
- n) Pony Express NHT
- o) Santa Fe NHT
- p) Selma to Montgomery NHT
- q) Trail of Tears NHT