Emergency Relief for Federally Owned Roads (ERFO) Program

15th Annual NW Tribal Transportation Symposium

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FHWA Organizational Chart

FEDERAL HIGHWAY ADMINISTRATION

Federal-Aid
Division Office in every State

Western Division
Vancouver, WA
AK, WA, OR, ID, MT

Central Division
Lakewood, CO
HI, CA, NV, UT, AZ, WY, CO
NM, ND, SD, NE, KS, OK, TX

Federal Lands

Eastern Division
Sterling, VA
MN, IA, MO, AR, LA, and all States East
Federal Lands Highway ERFO Program

- ERFO Program Manager
  - Jeff Mann (202) 366-9481

- ERFO Coordinators
  - EFLHD - Sergio Mayorga (571) 434-1547
  - CFLHD - Michael Daly (720) 963-3551
  - WFLHD - David Hilgendorf (360) 619-7620
Objectives

- Review the policy and guidelines of the ERFO Program
- Review the ERFO Program process
- Review BIA and Tribe Participation Requirements
Federal Emergency Relief Programs

- Federal Emergency Management Agency (FEMA)
- Federal Highway Administration
  - Emergency Relief for Federal-aid Highways (ER)
  - Emergency Relief for Federally Owned Roads (ERFO)
Emergency Relief Programs (BIA/ Tribe Summary)

- Applicant
  - FEMA – Tribes apply directly
  - ERFO – Tribes apply through the BIA
Emergency Relief Programs (BIA/ Tribe Summary)

- Eligible Facilities
  - FEMA – Tribal roads and streets not eligible for ERFO
  - ERFO – Roads on the IRR Inventory and Open to Public Travel
The Emergency Relief (ER) Program was authorized under the Federal-aid Highway Act of 1958.

The Emergency Relief for Federally Owned Roads (ERFO) Program was established in July 1977.

Authorized under Title 23, U.S.C. Section 125.
ERFO Program Overview

- Intent of Program is the repair or reconstruction of roads to pre-disaster conditions seriously damaged as the result of a
  - Natural disaster over a wide area or
  - Catastrophic failure
- Only serious damage is eligible
  - Severely impairs the safety, capacity, or usefulness of a road or bridge
Minimum threshold for each disaster is $700,000 in ERFO eligible repairs

Minimum threshold for each damaged site is $5,000 in eligible repairs

Heavy Maintenance is not eligible
ERFO Program Overview

- Pre-disaster deficient Facilities are limited in eligibility

- ERFO funds may not replace other “Programmed” Funds

- Not intended to fund all emergency and permanent repair costs to restore roads to pre-disaster conditions
ERFO Program Overview

- All Repairs must comply with NEPA and be given priority over non-emergency work

- Emergency Repairs
  - Complete **within two months** of access
  - **Take pictures** before making repairs

- Permanent Repairs
  - Obtain approval before making repairs
  - Must be under contract within 2-years following the FY of the damage
ER and ERFO Funding

- Permanent authorization of $100 million per year
- Supplemental appropriations account for 86% of the Program
- $100 million per event per State cap
When Damage Occurs

- Indian Tribal Government notifies BIA that damage has occurred within 2 weeks and provides the following:
  - Dates of damage
  - Location of damage (IRR)
  - Description and cause of damage
  - Estimated cost to repair “serious” damage back to pre-disaster conditions (not heavy maintenance)
  - Photos of damage
When Damage Occurs

- BIA ERFO Coordinator screens damage for eligibility
  - Natural Disaster over a wide area or Catastrophic Failure
  - $700,000 threshold
  - Damage on Eligible Roads (IRR)
- BIA telephones FHWA ERFO Coordinator
- BIA writes formal Notice of Intent (NOI) letter within 6 weeks of damage
Acknowledgment Letter

- The Federal Lands Highway Division Engineer (FLHDE) will send an acknowledgment letter to the Applicant within 7 calendar days of receipt of the NOI.
  - This letter provides basic information on the subsequent disaster assessment, disaster finding, and application procedures.
Disaster Assessment

The FLH Division Engineer conducts an independent evaluation to determine if:

- Natural Disaster over a wide area or Catastrophic Failure
- Repair of serious damage, back to pre-disaster conditions, on all ERFO Eligible Roads exceeds $700,000
Disaster Finding Letter

- The FLHDE will issue a finding letter for each Applicant who submitted an NOI within 60 days after receipt of the NOI Letter.

  - A positive finding letter will include the disaster number.
  - Finding is not dependant on a Presidential or Governor’s approval.
Damage Survey Reports (DSRs)

- DSR preparation is a joint BIA, Tribe, and FLH effort
- DSRs normally completed within three months after the positive finding letter
- DSRs document
  - Cause of damage
  - Eligible Repairs
**Program of Projects (POP)**

- BIA should submit POP letter to FLH Division Engineer within three months after the date of the positive disaster finding letter
  - Requests funding for Repairs documented in the DSRs
  - Indicates repair work the Applicant wants FHWA to perform
The FLHDE will advise the Applicant, by letter within 30 calendar days,
- work that is approved, and who will perform the work
- any approval conditions (PS&E, contract award, force account, work acceptance)

The approved POP establishes the maximum amount of ERFO funds that will be made available
FLH Fund Transfers

- BIA requests, by letter to FLH through their HQ or budget office, the amount of ERFO funds that will be obligated before the end of the fiscal year

- FLH transfers funds (within the approved POP amount) to the BIA HQ by disaster
BIA Fund Transfers

- Tribal Governments receive ERFO funds from the BIA and not directly from FLH
  - Tribes may perform repairs under Public Law 93-638 contracts
Advancing Projects During Funding Shortage

- Option 1: Use unobligated ERFO funds from other disasters
- Option 2: Use Federal Lands Highway Program (LRP) funds
- Option 3: Use other Funds (e.g. maintenance funds)
Fiscal Responsibilities

- The BIA is responsible for the administration and obligation of ERFO funds, including compliance with all applicable laws, regulations, and reporting of fiscal information required by FHWA.
Fiscal Responsibilities

- Upon repair completion the BIA must prepare and submit a final accounting of the costs claimed for each disaster
  - Contract Documents
    - Plans, specifications, NEPA documents, permits, contract payments, actual quantities, release of claims
  - Financial Records
    - Payroll, travel, per diem, materials, supplies, equipment rental and hours
Status Reports

- Two reports must be submitted to FLH each year for each Disaster
- Unobligated Balances Report
  - FLH and the BIA must reconcile all reported amounts
  - Due at end of the Fiscal Year to FLH HQ
- Disaster Repair Status/Closeout Report
  - Report by DSR
  - Due by December 31 for the previous FY to the FLH Division Engineer
## Disaster Repair Status/Closeout Report

**DISASTER REPAIR STATUS/CLOSEOUT REPORT**

<table>
<thead>
<tr>
<th>Date:</th>
<th>Disaster Number:</th>
<th>Sub-Unit:</th>
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<table>
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<tr>
<th>LOCATION DAMAGE SURVEY REPORT NUMBER</th>
<th>DESCRIPTION OF APPROVED REPAIR</th>
<th>APPROVED ESTIMATED COSTS</th>
<th>CURRENT OBLIGATIONS/FINAL EXPENDITURES</th>
<th>(Anticipated/Autual) Contract Award Date</th>
<th>(Anticipated/Actual) Construction Completion Date</th>
<th>Date Closed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Example: EUL 2000-49</td>
<td>Reconstruct roadway embankment and replace two culverts</td>
<td>Federal Lands Highway Division</td>
<td>Applicant</td>
<td>Other (Tribe, State, Agency, County)</td>
<td>TOTAL</td>
<td>Federal Lands Highway Division</td>
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<td>Example</td>
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The submitted final expenditures are the actual costs incurred to complete only approved eligible repairs. Attach a separate sheet to explain any deviations.

Signed: ___________________________ Date: ___________________________

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The table above is used to track the status and closeout of disaster repair projects. Each row represents a specific repair project, including the location damage survey report number, description of the repair, approved estimated costs, current obligations, final expenditures, and the anticipated or actual contract award and construction completion dates. The signed section at the bottom indicates the completion and approval of the report.
Final Closeout

- Final Closeout Report is generated by the BIA (within 6 months after final inspection) and contains:
  - DSR number and description of approved repairs, approved DSR amount, and actual repair costs (including PE and CE)
Final Closeout

- Final Closeout Field Review by FLHDE to determine if all ERFO Program requirements have been satisfied
- Final Closeout Letter notifying the BIA that the ERFO disaster is closed out
- Fund Reconciliation
End

- New ERFO Manual available on-line
  - [www.cflhd.gov/projects/erfo.cfm](http://www.cflhd.gov/projects/erfo.cfm)

- ERFO Training Available
  - June 3-4, 2008, Vancouver, WA

- Questions?