



**DEPARTMENT OF THE ARMY
MILITARY SURFACE DEPLOYMENT AND DISTRIBUTION COMMAND
1 SOLDIER WAY
SCOTT AFB, IL 62225-5006**

**MEMORANDUM OF AGREEMENT (MOA)
BETWEEN
THE MILITARY SURFACE DEPLOYMENT AND DISTRIBUTION COMMAND (SDDC)
AND
THE FEDERAL HIGHWAY ADMINISTRATION (FHWA)
FOR
THE EMERGENCY RELIEF FOR FEDERALLY OWNED ROADS (ERFO) PROGRAM**

This is a MOA between the SDDC and the FHWA. When referred to collectively, the SDDC and the FHWA are referred to as the "Parties".

1. **BACKGROUND.** The ERFO Program provides emergency funding for the repair or reconstruction of tribal transportation facilities, federal lands transportation facilities, and other federally owned roads that are open to public travel. Military installation roads (MIR) meet the definition of other federally owned roads open to public travel as defined in 23 United States Code (U.S.C.) 125.

2. **AUTHORITIES.** Funds for the ERFO program are provided under Title 23 U.S.C. 125. The Secretary of Transportation, acting through the FHWA, is authorized to expend monies from emergency funds authorized under 23 U.S.C Section 125 for the repair or reconstruction of these highways, roads, and trails which the Secretary of Transportation shall find (Finding) have suffered serious damage as the result of natural disaster over a wide area or catastrophic failure from any cause. The authority to make a Finding has been delegated to the Division Director in the Eastern, Central, and Western Federal Lands Highway Divisions (FLHD) by FHWA Order M1100-1Am 1995, Part I. The SDDC, under the United States Department of Defense (DOD) Directive 4510.11, is the DOD's designated agent to represent the military services on military installation highways which meet the definition of other federally owned roads open to public travel.

3. **PURPOSE.** The purpose of this agreement is to establish interagency procedures through which the SDDC, on behalf of DOD, and the FHWA will administer emergency relief funds under the ERFO Program.

4. **RESPONSIBILITIES OF THE PARTIES:**

4.1. The SDDC will:

4.1.1. Ensure that any MIR submitted for a Finding for ERFO funds will meet the definition of other federally owned roads open to public travel. Maps showing the locations of MIRs will be available at the military installations for FHWA use.

4.1.2. Collect and analyze supporting data for the FHWA Finding then request ERFO funds. The military services will administer any ERFO funds and obligational authority after SDDC approval. This includes compliance with all applicable law.

4.1.3. Establish additional ERFO policies and procedures as needed. These policies and procedures will be consistent with the ERFO Manual, to be followed by the military services. These additional ERFO policies and procedures will be shared with the FHWA.

4.1.4. Make diligent efforts to recover monies from the legally responsible parties to reduce the ERFO repair costs of highway damages that are caused by ships, barge tows, highway vehicles, vehicles with illegal loads, and similar improperly controlled objects or events.

4.1.5. Follow the procedures in the current ERFO Manual, current laws, regulations, and Executive Orders.

4.1.6. Cooperate with the various military installations to facilitate the repair of MIRs in an expeditious manner.

4.1.7. Designate an ERFO field coordinator.

4.2. The FHWA will:

4.2.1. Provide ERFO related technical assistance and training as requested by SDDC.

4.2.2. Follow the procedures in the current ERFO Manual, current laws, regulations, and Executive Orders.

4.2.3. Cooperate with the various military installations to facilitate the repair of MIRs in an expeditious manner.

4.2.4. Designate an ERFO field coordinator.

5. Notification, Disaster Assessment, Finding, and Damage Assessments:

5.1. The SDDC will:

5.1.1. Immediately notify the FHWA (ERFO Coordinator), by telephone or email, when it appears that damage or destruction caused by a natural disaster or catastrophic failure is sufficient to justify repair or reconstruction under the ERFO Program and the affected agency's intent to apply for emergency relief.

5.1.2. Submit a notice of intent letter to the FHWA (FLHD) servicing that facility within the required days from the beginning of the disaster as stated in the ERFO Manual.

5.1.3. Assist the FHWA (ERFO Coordinator) in planning and conducting the disaster and damage assessments. (The military services or military installation field personnel will cooperate in promptly making field surveys of the overall damage and in the preparation of field reports.)

5.1.4. Submit initial damage survey reports to the FHWA (FLHD) within the required months after the date of the Positive Finding letter as stated in the ERFO Manual.

5.2. The FHWA (FLHD) will:

5.2.1. Dispatch FHWA emergency response team(s) to provide technical assistance during and immediately after a natural disaster or catastrophic failure.

5.2.2. Promptly acknowledge SDDC's Notice of Intent letter, in writing, within the required calendar days of receipt as stated in the ERFO Manual.

5.2.3. Plan and conduct a disaster assessment and determine if there has been a natural disaster of sufficient extent and intensity or catastrophic failure to warrant ERFO funding consideration.

5.2.4. Make a Finding (positive or negative) that serious damage did or did not occur on federal roads within the required weeks of the receipt of the SDDC's Notice of Intent letter as stated in the ERFO Manual.

5.2.5. Advise SDDC, by letter, of the Negative Finding, and close the disaster.

5.2.6. Advise SDDC, by letter, of the Positive Finding and explain the remaining process. If a quick release of ERFO funding is appropriate, include the approval of ERFO funds in the Positive Finding letter.

5.2.7. Arrange for FHWA field personnel to be assigned to perform and conduct damage assessments with cooperation from the SDDC, military service, or military installation field personnel.

5.2.8. Review and recommend approval or denial of each completed damage survey report and furnish a photocopy to the SDDC after any necessary revisions have been made.

6. Application and the Programming of ERFO Repair Projects.

6.1. The SDDC will:

6.1.1. Submit, by letter, within the required months after the Positive Finding was made as stated in the ERFO Manual, the ERFO Program of Projects (POP) for each disaster to the FHWA (FLHD) servicing that facility. This should also include the list of ERFO repairs which the SDDC wants the FHWA (FLHD) to administer.

6.1.2. Submit, by letter to the FHWA (FLHD), any changes to the approved ERFO POP for each disaster.

6.2. The FHWA (FLHD) will:

6.2.1. Review and approve or deny the quick release of ERFO funds before an ERFO POP is approved for the disaster.

6.2.2. Advise the SDDC, by letter, of the approved POPs for each disaster and provide guidance relative to the administration of ERFO projects within the required calendar days of receipt of the proposed program of projects as stated in the ERFO Manual. This includes the FHWA (FLHD) need to approve the plans, specifications, and estimate (PS&E) package, approval of force account work by the military installations, acceptance of completed construction for individual projects on major work sites during the POP of approval process, and those repairs which it will administer.

6.2.3. Review, approve, or deny, by letter to the SDDC, within the required calendar days as stated in the ERFO Manual, changes to the approved ERFO POPs for each disaster.

7. Performing ERFO Repairs:

7.1. The SDDC or military service(s) will:

7.1.1. Submit for FHWA (FLHD) approval, if required, PS&E packages, approval of force account work, and acceptance of completed construction for individual projects on major work sites.

7.1.2. Promptly and efficiently complete emergency and permanent ERFO repairs. This includes compliance with all applicable laws, regulations, Executive Orders, and the reporting requirement in the ERFO Manual. ERFO permanent repairs: force account projects must be completed by the end of the second fiscal year following the year in which the disaster occurred; contracted projects must be under construction by the end of the second fiscal year following the year in which the disaster occurred.

7.1.3. Submit suitable justification for time extension to complete permanent repairs within the required days prior to the end of the second fiscal year to the FHWA (FLHD) for approval as stated in the ERFO Manual.

7.1.4. Ensure all completed construction projects are reviewed and a final closeout report is transmitted to the FHWA (FLHD) after the completion of all projects for an individual disaster. The report must include a final accounting of all costs claimed.

7.2. The FHWA (FLHD) will:

7.2.1. Review and approve or deny required PS&E packages, approve force account work if in the best interest of the Government, and accept completed construction for individual

projects on major work sites within the required calendar days of receipt as stated in the ERFO Manual.

7.2.2. Promptly and efficiently complete emergency and permanent ERFO repairs which are being administered by FHWA. This includes compliance with all applicable laws, regulations, and Executive Orders. All ERFO permanent repairs: force account projects must be completed by the end of the second fiscal year following the year in which the disaster occurred, contracted projects must be under construction by the end of the second fiscal year following the year in which the disaster occurred.

7.2.3. Review selected completed construction projects and prepare a final Disaster Repair Status Closeout Report after the completion of projects administered by the FHWA for an individual disaster.

7.2.4. Review, approve, or deny, by letter to SDDC within the calendar days, time extensions for completing permanent repairs on a disaster as stated in the ERFO Manual.

7.2.5. At FHWA discretion, may withdraw approval and funding for ERFO repair work which is not in progress after 36 months of the date of the Positive Finding letter.

7.2.6. Conduct a disaster closeout review of repairs made by the military services on a disaster within the required calendar days after notification by SDDC as stated in the ERFO Manual.

8. FUNDING AND REPORTING:

8.1. The SDDC will:

8.1.1. Request ERFO funds by disaster number, in writing or by email, from the FHWA (FLHD).

8.1.1.1. Advise the military services of the amount of ERFO available for their disasters.

8.1.2. Ensure the military services furnish FHWA (with copy to the SDDC) the following reports and data as indicated for ERFO repair projects, as appropriate:

8.1.2.1. SF-133, Report on Budget Execution Form, reflecting specific financial and budget data for each different type of allocation and overall summary by Treasury symbol due on the 5th workday of each month.

8.1.2.2. Trial balance due on the 5th workday of each month.

8.1.2.3. Provide an explanation of adverse balances/other adjustments.

8.1.2.4. Annual ERFO Disaster Repair Status Closeout Reports.

8.1.2.5. Other required reports described in the ERFO Manual.

8.1.3. Transmit the military services request for liquidating cash electronically to the FHWA Chief Financial Officer (refer to the Recipient Accounting Handbook for more specific information).

8.1.4. Request FHWA (FLHD) reinstate year-end unobligated ERFO fund balances by disaster number.

8.1.5. Submit a report by disaster number showing allocation received, expenditures, obligations on a quarterly basis.

8.2. The FHWA will:

8.2.1. Monitor the obligation and use of ERFO funds by the military services. This includes adjusting the allocations of ERFO funds for disasters as necessary and withdrawing excess authority upon completion of a repair project or all repairs for a disaster.

8.2.2. Assist the SDDC and the military services in making the year-end adjustments of ERFO fund allocations and obligations. This may include the withdrawal of any unobligated ERFO funds from the military services at the end of the fiscal year and reinstatement in the next fiscal year.

8.2.3. Furnish reports to the military services (with copy to SDDC) for the portion of ineligible work undertaken by the FHWA including:

8.2.3.1. SF-133, Report on Budget Execution Form, reflecting specific financial and budget data for each different type of allocation and overall summary by Treasury symbol.

8.2.3.2. Annual Year-End Closing Statement.

8.2.3.3. Annual ERFO Disaster Repair Status Closeout Reports.

8.2.3.4. Other required reports described in the ERFO Manual.

9. PERSONNEL. Each Party is responsible for all costs of its personnel, including pay and benefits, support, and travel except for military personnel costs which are directly related to execution of an ERFO project. Direct personnel costs may be charged to the ERFO project. Each Party is responsible for supervision and management of its personnel.

10. GENERAL PROVISIONS:

10.1. POINTS OF CONTACT (POC): The following POCs will be used by the Parties to

communicate in the implementation of this MOA. Each Party may change its point of contact upon reasonable notice to the other Party.

10.1.1. For the SDDC:

10.1.1.1. Senior Highways for National Defense Program Engineer,
telephone: 618-220-5229.

10.1.2. For the FHWA:

10.1.2.1. Director of Program Development, Federal Lands Highway Office,
telephone: 202-366-9480.

10.2. CORRESPONDENCE: All correspondence to be sent and notices to be given pursuant to this MOA will be addressed, if to the SDDC, to:

10.2.1. Chief, Office of the Special Assistant for Transportation Engineering
Military Surface Deployment and Distribution Command
Transportation Engineering Agency
1 Soldier Way
Scott AFB, IL 62225

and, if to the FHWA, to:

10.2.2. Director of Program Development
Federal Lands Highway
FHWA-U.S. Department of Transportation
1200 New Jersey Ave., SE
Washington, D.C. 20590

10.3. Nothing in this agreement is intended to diminish or otherwise affect the authority of either the SDDC or the FHWA to execute their respective statutory functions.

10.4. This agreement is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its offices, or its employees.

10.5. Each agency is encouraged to find ways to improve the administration of the ERFO program and to make mutually agreeable changes to affect improvements in the ERFO program.

10.6. This agreement is not intended to fix the procedures to be followed so rigidly as to prevent logical, practical, and responsible actions by the SDDC, military services, or the FHWA, but rather to outline the responsibilities, procedures, or actions for most projects and activities.

10.7. REVIEW OF AGREEMENT. This MOA will be reviewed annually on or around the anniversary of its effective date for financial impacts and triennially in its entirety.

10.8. MODIFICATION OF AGREEMENT. This MOA may only be modified by the written agreement of the Parties, duly signed by their authorized representatives.

10.9. DISPUTES. Any disputes relating to this MOA will, subject to any applicable law, Executive Order, Directive, or Instruction, be resolved by consultation between the Parties or in accordance with DODI 4000.19.

10.10. TERMINATION OF AGREEMENT. This MOA may be terminated by either Party by giving at least 180 day written notice to the other Party. The MOA may also be terminated at any time upon the mutual written consent of the Parties.

10.11. TRANSFERABILITY. This Agreement is not transferable except with the written consent of the Parties.

10.12. ENTIRE AGREEMENT. It is expressly understood and agreed that this MOA embodies the entire agreement between the Parties regarding the MOA's subject matter.

10.13. EFFECTIVE DATE. This MOA supersedes the MOA between SDDC and FHWA, dated 10 April 2012. This MOA takes effect beginning on the day after the last Party signs.

10.14. EXPIRATION DATE. This Agreement expires 9 years from the date of last signature.

10.15. CANCELLATION OF PREVIOUS AGREEMENT. This MOA cancels and supersedes the previously signed agreement between the same parties with the subject Administering the Emergency Relief Funds under the Emergency Relief for Federally Owned Roads Program, and effective date of 10 April 2012.

11. FINANCIAL DETAILS:

11.1. The SDDC requests ERFO funds from the FHWA in writing or by email.

11.2. Funds are requested by disaster. The amount of funds provided may not be 100% and is based on guidance provided in the ERFO Manual.

11.3. The FHWA transfers ERFO funds and obligation authority, by letter, within the required calendar days after receipt of the request as stated in the ERFO Manual, when funds are available, to the military services for ERFO repair projects, which the military installations will perform. This includes preparing the FHWA 370, Advice of Funds Available for Obligation Form.

11.4. The FHWA transfers liquidating cash using the Non-Expenditure Transfer Authorization Form (SF-1151) to the military services to meet current expenditure needs within the required calendar days of the receipt of the request as stated in the ERFO Manual.

11.5. The FHWA will notify the SDDC, in writing, when ERFO funds are not available or limited when the \$100 million cap is issued.

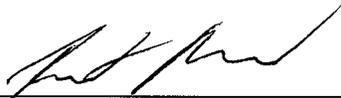
11.6. SDDC ensures that the military services transfer funds as necessary, for any ineligible work being performed on a FHWA (FLHD) administered ERFO repair project to the FHWA. Transfers shall be accomplished using SF-1151. Return unobligated ERFO funds to FHWA before the end of the fiscal year if the amount is known and certain.

11.7. This MOA does not obligate funds to any project and does not serve as a funding agreement.

AGREED:

For FHWA:

For SDDC:



ROBERT E. ARNOLD
Acting Associate Administrator for
Federal Lands



SUSAN A. DAVIDSON
Major General, USA
Commanding

4-16-15
Date

MAR 10 2015
Date

