



Memorandum

Subject: **ACTION:** Allocation of Section 125 of the
Omnibus Appropriations Act, 2009

Date: May 14, 2009

From: Dwight A. Horne
Director, Office of Program Administration

Reply to
Attn. of: HIPA-10

To: Division Administrators

Section 125 of Division I of the Omnibus Appropriations Act, 2009 (Public Law 111-8) identifies 194 projects totaling \$161,326,625 for the surface transportation priorities. The project descriptions can be found in the *Joint Explanatory Statement to Accompany the Omnibus Appropriations Act*. The HCF has allotted this amount to our office under program code 56A0 which has been established for the Section 125 projects.

Therefore with this memorandum, we are allocating \$161,326,625 of program code 56A0 funds (DELPHI code 15X0561B50.0000.05056A0500) to the States, with an equal amount of obligation authority as indicated in the attachment to this memorandum.

These funds are available until expended, and the Federal share is 100 percent. These funds are not subject to obligation limitation and the obligation authority is available until used. Since the contract authority is available until expended and the obligation authority is available until used, there is no deadline by which the funds must be obligated or transferred to another Federal agency.

The funding for these projects will be treated as demo or high priority project funding, and Demo IDs have been assigned for each project. We have determined that this is the best way to properly track these funds to ensure that they are only obligated and expended for the particular project for which they were designated. Each project has been assigned a unique Demo ID that links the funding to the specific project description as listed in the Joint Explanatory Statement accompanying this Act. The Demo IDs under which these funds are being distributed are also included in the attachment to this memorandum.

Additionally, Section 125 allows for these funds to be transferred to another Federal agency. The State should submit an FHWA Transfer Request Form to the Division Office, as outlined in Tom Park's July 19, 2007, memorandum titled, "*Fund Transfers to Other Agencies and Among Title 23 Programs*." The Division Office concurrence should then be forwarded to the Office of Budget.



For non-traditional projects unrelated to highway improvements or other activities that are normally not eligible under title 23, the receiving Federal agency may administer the project in accordance with their own appropriate Federal requirements. However, since the project description defines the scope of work on which the funds may be legally expended, the funding for the project can be only used for the activities within the scope and physical limits as defined by the project description.

In cases where the transfer is for a highway or other Federal-aid eligible activity, the project must be carried out by the receiving agency in accordance with Title 23 U.S.C. requirements although the receiving Federal agency may utilize their own Federal Acquisition Regulations for letting of contracts.

By copy of this memorandum, we are requesting that the Office of Financial Management process this request through the Demo Tracking System in FMIS.

If you have any questions, please contact Joe Taylor at 202-366-1564.

Attachment

