

Questions & Answers - Fixing America's Surface Transportation (FAST) Act Rescission (Last Updated 10/16/2019)

Question 1: What is a rescission?

Answer 1: A rescission is legislation enacted by Congress that cancels the availability of budget authority (e.g., contract authority) before that authority would otherwise expire. Note that a rescission of contract authority does not affect obligation limitation.

Question 2: How much is the FAST Act rescission and when will it take effect?

Answer 2: Section 1438 of the FAST Act contains a \$7.569 billion rescission that will take place on July 1, 2020.

Question 3: What funding is subject to the FAST Act rescission?

Answer 3: The FAST Act rescission applies to unobligated balances of contract authority that is apportioned under chapter 1 of title 23, United States Code, with the exceptions described in Question 5. For a detailed list of programs and program codes that are subject to the FAST Act rescission, please see the Appendix of these Q&As.

Question 4: Will the FAST Act rescission apply to any contract authority that is either exempt from the obligation limitation or associated with special no-year obligation limitation?

Answer 4: Yes, some programs exempt from the obligation limitation or associated with special no-year obligation limitation, such as the portion of the National Highway Performance Program (NHPP) funding that is exempt from the obligation limitation, are subject to the FAST Act rescission.

A State may generally obligate these funds without regard to the State's overall obligation limitation for that fiscal year. Please note that any rescission of these special funds will result in an actual reduction to the total amount of funding that a State may obligate, which is not the case with funds subject to the formula obligation limitation that are in excess of available formula obligation limitation.

Please see the detailed list of programs and program codes that are subject to the FAST Act rescission in the Appendix of these Q&As.

Question 5: What funding is not subject to the FAST Act rescission?

Answer 5: The following funding is not subject to the FAST Act rescission:

- Contract authority apportioned under chapter 1 of title 23 that is specifically excluded from the rescission by section 1438 of the FAST Act:

- Safety programs, such as the Highway Safety Improvement Program (HSIP), High Risk Rural Roads set-aside, section 154 and 164 penalty funding, Railway-Highway Grade Crossing Program, and some older pre-HSIP safety funding.
- Funding sub-allocated by population under the Surface Transportation Program/ Surface Transportation Block Grant Program.
- Contract authority not apportioned under chapter 1 of title 23. This contract authority is for several SAFETEA-LU programs such as Safe Routes to School, Coordinated Border Infrastructure Program, and Appalachian Development Highway System Program.
- Any allocated funding (non-apportioned), such as funding for earmarks, Federal Lands programs, research programs, ferry boats, territorial and Puerto Rico highway programs, TIFIA, emergency relief, discretionary freight program awards, and administrative expenses.

Question 6: How will FHWA calculate the FAST Act rescission?

Answer 6: As specified in the FAST Act, the rescission will be calculated based on each State’s overall share of the unobligated balances of contract authority subject to the rescission as of September 30, 2019, relative to all States. This share will determine the proportional amount of the rescission applied to each State.

For example, assume that the total unobligated balance subject to rescission for all States as of September 30, 2019, is \$10,000,000,000 and State X has an unobligated balance subject to rescission of \$500,000,000. State X’s share of the unobligated balances is calculated to be 5 percent ($\$500,000,000/\$10,000,000,000$); thus, 5 percent of the rescission ($\$7,569,000,000 \times 5\% = \$378,450,000$) would be applied to State X. The below table illustrates this concept:

State Share of \$7.569B Rescission (Assume \$10B unobligated balance for all States on 9/30/2019)			
State	Unobligated Balance on 9/30/2019 (\$ in millions)	Percent of National Unobligated Balance	Required Rescission on July 1, 2020 (\$ in millions)
X	\$500	5%	$\$7,569 \times 5\% = \378.45
Y	\$0	0%	$\$7,569 \times 0\% = \0.00
Z	\$100	1%	$\$7,569 \times 1\% = \75.69

Question 7: How will the FAST Act rescission be calculated and applied among programs within each State?

Answer 7: Each State’s total rescission amount will be applied by program by multiplying the State’s total rescission amount by the share of that State’s unobligated balance for each program as it relates to that State’s total unobligated balance for all programs subject to the rescission.

Continuing with the example from Question 6, suppose that the \$500 million unobligated balance is made up of the following: \$100 million in National Highway Performance Program (NHPP); \$0 in Surface Transportation Block Grant (STBG) Program; \$50 million in Transportation Alternatives; \$150 million in National Highway Freight Program (NHFP); and

\$200 million in Congestion Mitigation & Air Quality Improvement (CMAQ) Program. Using those program unobligated balances, the calculation of State X's programmatic shares of the rescission is illustrated in the table below.

Programmatic Application of State X Rescission Rescission = \$378.45 Million			
Program	Unobligated Balance on 9/30/2019 (\$ in millions)	Percent - Unobligated Balance	Required Rescission on July 1, 2020 (\$ in millions)
NHPP	\$100	20%	$\$378.45 \times 20\% = \75.690
STBG	\$0	0%	$\$378.45 \times 0\% = \0.00
Transportation Alternatives	\$50	10%	$\$378.45 \times 10\% = \37.845
NHFP	\$150	30%	$\$378.45 \times 30\% = \113.535
CMAQ	\$200	40%	$\$378.45 \times 40\% = \151.380
Total	\$500	100%	\$378.45

Question 8: Programs often consist of several Fiscal Management Information System (FMIS) program codes. How will this be handled?

Answer 8: The proportional programmatic calculation will be done at the fund source level of each program. The fund source refers to the FMIS program codes that are grouped together based on similar program components. The detailed breakdown of contract authority subject to the rescission that is provided in the Appendix of these Q&As shows the programs broken down by fund source and the program codes within each fund source. For example, the Congestion Mitigation & Air Quality Improvement (CMAQ) program main fund source program codes are 3200, Q400, H400, L400, L40E, L40R, M400, M40E, and Z400.

Question 9: How will the FAST Act rescission be applied in the FMIS to the program codes within each fund source?

Answer 9: Each State's rescission amount will be applied within each fund source in a chronological manner by rescinding funds first from the oldest program codes to the newest program codes.

Continuing with the examples from Questions 6 and 7, suppose that the CMAQ main fund source program codes 3200, Q400, H400, L400, L40E, L40R, M400, M40E, and Z400 contain unobligated balances of \$0, \$0, \$17,000,000, \$29,000,000, \$0, \$0, \$20,000,000, \$34,000,000, and \$100,000,000, respectively, for State X. Of the required \$151,380,000 CMAQ rescission, \$17,000,000 would be rescinded from H400, \$29,000,000 would be rescinded from L400, \$20,000,000 would be rescinded from M400, \$34,000,000 would be rescinded from M40E, and the remaining \$51,380,000 would be rescinded from Z400. Thus, Z400, the newest of the program codes, would retain an unobligated balance of \$48,620,000. The table below illustrates this concept:

Programmatic Application of State X Rescission to CMAQ Fund Source			
CMAQ Rescission = \$151.38 Million			
Program Code	Unobligated Balance on 9/30/2019 (\$ in millions)	Required Rescission on July 1, 2020 (\$ in millions)	Unobligated Balance Remaining (\$ in millions)
3200	\$0	\$0	\$0
Q400	\$0	\$0	\$0
H400	\$17	\$17	\$0
L400	\$29	\$29	\$0
L40E	\$0	\$0	\$0
L40R	\$0	\$0	\$0
M400	\$20	\$20	\$0
M40E	\$34	\$34	\$0
Z400	\$100	\$51.38	\$48.62
CMAQ Total	\$200	\$151.38	\$48.62

Question 10: Do States have any flexibility to determine how the rescission will be implemented at the program level?

Answer 10: No, States do not have flexibility to determine the programs and amounts by program from which the rescission is applied. Section 1438 of the FAST Act requires that the amount to be rescinded from each program within a State be calculated using a formula.

Question 11: How will the FAST Act rescission be calculated if the unobligated balances of contract authority subject to the rescission as of September 30, 2019, are less than the total rescission amount of \$7.569 billion?

Answer 11: The proportional calculation will be implemented according to the law even if the unobligated balances of contract authority subject to the rescission as of September 30, 2019, are less than the total rescission amount of \$7.569 billion. Unobligated balances as of September 30, 2019, of less than \$7.569 billion would not prevent the proportional calculation from being completed. The actual rescission takes place on July 1, 2020. As such, unobligated balances from FY 2020 apportionments that are distributed on October 1, 2019, as well as all prior unobligated carryover balances, are subject to rescission if the unobligated balances of contract authority subject to the rescission as of September 30, 2019, are less than the total rescission amount of \$7.569 billion.

Suppose that the total unobligated balance of contract authority subject to rescission as of September 30, 2019, is \$6 billion. Of that amount, State X has an unobligated balance of \$600 million, representing a 10 percent share of the total unobligated balance. Based on State X's 10 percent share of the total unobligated balance, the State will be required to absorb 10 percent of the rescission or \$756.9 million.

State Share of \$7.569B Rescission (Assume \$6B unobligated balance for all States on 9/30/2019)			
State	Unobligated Balance on 9/30/2019 (\$ in millions)	Percent of National Unobligated Balance	Required Rescission on July 1, 2020 (\$ in millions)
X	\$600	10%	$\$7,569 \times 10\% = \756.9
Y	\$0	0%	$\$7,569 \times 0\% = \0.00
Z	\$60	1%	$\$7,569 \times 1\% = \75.69

Continuing with this example, suppose that State X's \$600 million unobligated balance is made up of the following: \$120 million in National Highway Performance Program (NHPP); \$0 in Surface Transportation Block Grant (STBG) Program; \$60 million in Transportation Alternatives; \$180 million in National Highway Freight Program (NHFP); and \$240 million in Congestion Mitigation & Air Quality Improvement (CMAQ) Program. Using those program unobligated balances, State X's programmatic shares of the rescission are as follows:

Program	Unobligated Balance (\$ in millions)	Percent - Unobligated Balance	Required Rescission on July 1, 2020 (including unobligated balances as of September 30, 2019 and FY 2020 CA) (\$ in millions)
NHPP	\$120	20%	$\$756.9 \times 20\% = \151.38
STBG	\$0	0%	$\$756.9 \times 0\% = \0.00
Transportation Alternatives	\$60	10%	$\$756.9 \times 10\% = \75.69
NHFP	\$180	30%	$\$756.9 \times 30\% = \227.07
CMAQ	\$240	40%	$\$756.9 \times 40\% = \302.76
Total	\$600	100%	\$756.9

Question 12: What is the overall process/timeline for the implementation of the FAST Act rescission?

Answer 12: The anticipated process/timeline for implementation is as follows:

- October 2019 – The Office of the Chief Financial Officer (HCF) will calculate the rescission by State and program/fund source once final unobligated balances as of September 30, 2019, are available.
- Late October/early November 2019 – The FHWA will issue a Notice signed by the FHWA Administrator outlining the requirements and calculation of the FAST Act rescission, including rescission shares and rescission amounts by State and program/fund source.
- July 1, 2020 – The HCF will withdraw funds from FMIS based on the rescission amounts.

- July 2020 – The HCF will provide (via e-email and web posting) tables showing final rescission amounts.

Question 13: Is a State required to maintain sufficient unobligated balances in each fund source for the calculated rescission amounts based on unobligated balances as of September 30, 2019, even though the withdrawal of the rescinded funds does not occur until July 1, 2020?

Answer 13: States should maintain sufficient balances in each program fund source to meet the State's share of the rescission as calculated based on unobligated balances subject to the rescission as of September 30, 2019. States that do not have such sufficient unobligated balances to meet the rescission on July 1, 2020, need to make adjustments to address any shortfall and allow the rescission to be implemented as calculated and required by law.

Question 14: If either a portion or all of the unobligated balances of contract authority subject to the FAST Act rescission for a fund source will lapse at the end of FY 2019 and no additional FY 2020 funds are provided for that fund source, how will HCF implement the rescission amount calculated for that fund source?

Answer 14: Any funds that will lapse at the end of FY 2019 will be excluded from the unobligated balances calculation since the calculations use year-end balances after the lapsing of funds.

Question 15: Will the FAST Act rescission have any impact on how States complete their annual responses to the August Redistribution for additional obligation limitation?

Answer 15: No. States do not need to consider or factor in the FAST Act rescission when completing their August Redistribution responses.

Question 16: If nearly all unobligated balances of contract authority are reduced through the FAST Act rescission, will States be able to accept additional formula obligation limitation through the FY 2020 August redistribution?

Answer 16: Any additional formula obligation limitation requested and received under August redistribution may be applied to the balances of contract authority that remain after the FAST Act rescission is implemented and to the categories of funds that are not subject to such rescission.

Question 17: What information will FHWA provide in the future regarding the FAST Act rescission?

Answer 17: On January 8, 2019, HCF distributed an updated table of unobligated balances as of September 30, 2018, subject to the rescission to help States plan. The table of unobligated balances as of September 30, 2018, subject to the FAST Act rescission is located at: <https://www.fhwa.dot.gov/cfo/guidance.cfm>. The FHWA will provide information and support as warranted to assist States with the implementation of the rescission.

Question 18: How does the FAST Act rescission impact FY 2021 funding?

Answer 18: The FAST Act is authorized from FY 2016 through FY 2020. FY 2021 funding levels will be determined by Congress.

Question 19: Are the Highway Infrastructure Program (HIP) funds appropriated in the Department of Transportation Appropriations Act, 2018, and the Department of Transportation Appropriations Act, 2019, subject to the FAST Act rescission?

Answer 19: No. The HIP funds are not subject to the FAST Act rescission.

Question 20: Are there any prohibitions on the transfer of contract authority in FY 2020 before the rescission takes effect?

Answer 20: No. There are no additional prohibitions on transfers of contract authority in FY 2020. States must continue to follow FHWA Order 4551.1, *Fund Transfers to Other Agencies and Among Title 23 Programs*. However, States must ensure that the requisite amount of funding scheduled for rescission is available in each program fund source on July 1, 2020, as indicated in Question 13.

CANCELLED

Appendix

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION	
PROGRAM CODE GROUPINGS FOR THE RESCISSION OF UNOBLIGATED BALANCES OF CONTRACT AUTHORITY PURSUANT TO THE FAST ACT	
PROGRAM (Fund Source)	PROGRAM CODES
INTERSTATE MAINTENANCE	0420, 0440, 1770
NATIONAL HIGHWAY PERFORMANCE PROGRAM (NHPP)	M001, M0E1, Z001
NATIONAL HIGHWAY SYSTEM BRIDGE PENALTY	Z510
SURFACE TRANSPORTATION BLOCK GRANT PROGRAM (STBG) FLEX (ANY AREA)	33D0, Q240, H240, L240, L24E, L24R, M240, M24E, Z240
BORDER STATE INFRASTRUCTURE	Z500
TRANSPORTATION ENHANCEMENTS	33B0, Q220, H220, L220, L22E, L22R
TRANSPORTATION ALTERNATIVES - FLEX (ANY AREA)	M300, M30E, Z300
TRANSPORTATION ALTERNATIVES - URBANIZED AREAS WITH POPULATION OVER 200K	M301, M3E1, Z301
TRANSPORTATION ALTERNATIVES - AREAS WITH POPULATION OVER 5K TO 200K	M302, M3E2, Z302
TRANSPORTATION ALTERNATIVES - AREAS WITH POPULATION 5K AND UNDER	M303, M3E3, Z303
RECREATIONAL TRAILS PROGRAM (RTP)	Z940
CONGESTION MITIGATION & AIR QUALITY IMPROVEMENT (CMAQ)	3200, Q400, H400, L400, L40E, L40R, M400, M40E, Z400
PROJECTS TO REDUCE PM 2.5 EMISSIONS	M003, M0E3, Z003

PROGRAM (Fund Source)	PROGRAM CODES
METROPOLITAN PLANNING PROGRAM	0850, Q450, H450, L450, L45E, L45R, M450, M45E, Z450
NATIONAL HIGHWAY FREIGHT PROGRAM (NHFP)	Z460
STBG PROGRAM OFF-SYSTEM BRIDGE	M233, M2E3, Z233
STATE PLANNING AND RESEARCH (SPR)	0800, 0810, Q550, H550, L550, L55E, M550, M55E, Z550
RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER (RD&T)	0860, Q560, H560, L560, L56E, M560, M56E, Z560
DONOR STATE BONUS FLEXIBLE	35A0
DONOR STATE BONUS URBANIZED	35B0
DONOR STATE BONUS < 200K	35C0
NATIONAL HIGHWAY PERFORMANCE PROGRAM (NHPP) - Exempt	Z002
MINIMUM GUARANTEE - Exempt	Q770, H770
MINIMUM GUARANTEE - Special	Q760, H760

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