



U.S. Department  
of Transportation

**Federal Highway  
Administration**

# Notice

Subject:

**FEDERAL-AID HIGHWAY PROGRAM OBLIGATIONS – FISCAL  
YEAR (FY) 2007 REDISTRIBUTION AFTER AUGUST 1, 2007**

Classification Code

Date

Office of Primary Interest

**N4520.192**

**July 31, 2007**

**HCFB-1**

1. **What is the purpose of this Notice?** This Notice provides procedures governing the determination and redistribution of unneeded balances of Fiscal Year (FY) 2007 obligation authority subject to lapse on September 30, 2007, pursuant to Section 1102(d) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Public Law Number (Pub. L. No.) 109-59 and Section 21011 of the Revised Continuing Appropriations Resolution, 2007, Pub. L. No. 110-5.
2. **What is the background information?**
  - a. Section 21011 of Pub. L. No. 110-5 provides that Sections 110, 112, and 113 of Division A of Pub. L. No. 109-115 shall not apply to FY 2007.
  - b. Section 1102(d) of the SAFETEA-LU provides for the redistribution, after August 1, 2007, of any obligation authority distributed to a State for FY 2007 that is subject to lapse on September 30, 2007, if the State cannot obligate the authority by September 26, 2007 (the last day for obligations for the Federal-aid Highway Program through the Fiscal Management Information System (FMIS)).
  - c. Section 1102(e) of the SAFETEA-LU provides that the obligation authority made available for transportation research programs carried out under Chapter 5 of title 23, United States Code (U.S.C.), and title V of the SAFETEA-LU, shall remain available for three fiscal years, and it shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years. As a result, these amounts are not subject to redistribution. **However, FY 2005 obligation authority is subject to lapse if the obligation authority for transportation research programs is not obligated by September 26, 2007.**
  - d. When determining unneeded balances of obligation authority for FY 2007, authority initially distributed by formula that will be available for redistribution among the other States after August 1, 2007, and authority initially reserved from the distribution to support the allocation of non-formula (allocated) programs, the Federal Lands Highway Program and administrative funds will be identified separately. States should not report on special limitation

provided for the Equity Bonus Program, the Appalachian Development Highway System Program, High Priority Projects, Projects of National and Regional Significance, the National Corridor Infrastructure Improvement Program, Transportation Improvements, the Discretionary Bridge Program, and the National Highway Traffic Safety Administration's Operations and Research Program, as such amounts of obligation authority are not subject to lapse.

**3. How was the FY 2007 obligation authority distributed?**

- a. A total of \$28.2 billion in obligation authority was distributed by formula to the States in FY 2007. This obligation authority is available for FY 2007 only and is subject to lapse on September 30, 2007.
- b. An additional \$6.7 billion was reserved for distribution as special (multi-year) limitation for the Equity Bonus Program, the Appalachian Development Highway System Program, High Priority Projects, Projects of National and Regional Significance, the National Corridor Infrastructure Improvement Program, Transportation Improvements, and the Discretionary Bridge Program. These amounts are not subject to redistribution and will remain available until expended.
- c. Also, \$3.9 billion was reserved from the distribution and used to support the allocation of non-formula (allocated) programs, the Federal Lands Highway Program, Transportation Research, and administrative funds.
- d. The remaining \$217 million was reserved for transfer to meet the provisions of Section 154 of 23 U.S.C. (Open Container Requirements) and Section 164 of 23 U.S.C. (Minimum Penalties for Repeat Offenders for Driving While Intoxicated or Driving Under the Influence).
- e. A grand total of \$39.1 billion in annual obligation authority was distributed for FY 2007.

**4. How is the unobligated FY 2007 obligation authority initially distributed by formula redistributed?**

- a. Each Division Administrator must receive a plan from their respective State department of transportation by August 13, 2007, to provide a basis for determining: (1) the amount of FY 2007 obligation authority initially distributed by formula that will be available for redistribution among the other States after August 1, 2007, and (2) those States that are able to obligate amounts in addition to those previously distributed. The plan from the State must include the following information:
  - (1) The amount of formula obligation authority that has not been obligated as of July 31, 2007;
  - (2) The projects and/or Federal funds that will be obligated by the State no later than September 26, 2007;

- (3) The formula obligation authority in excess of amounts that can be obligated this fiscal year and that is released by the State; and
    - (4) Additional authority that could be obligated if additional limitation were provided.
  - b. The Division Administrator must review the plan submitted by the State and reach an agreement with the State on those projects that could be approved and authorized by the Division Office on or before September 26, 2007.
  - c. By August 17, 2007, the Division Administrator must submit a report to the official electronic mailbox of the Federal Highway Administration's (FHWA's) Office of Budget (HCFB-1), "FHWA, BudgetDivision", showing:
    - (1) the amount of FY 2007 formula obligation authority that is in excess of what the State will be able to obligate this fiscal year and is therefore being released by the State, or
    - (2) that the State and Division Administrator have reached an agreement that the State's remaining unobligated FY 2007 formula obligation authority will be obligated by September 26, 2007.
5. **How is the unobligated FY 2007 obligation authority distributed to support obligation of non-formula (allocated) funds released?**
- a. The Division Administrator, in consultation with the State, shall determine the amount of FY 2007 obligation authority initially distributed to support the obligation of non-formula (allocated) funds that cannot be obligated by September 26, 2007.
  - b. No later than August 15, 2007, non-formula (allocated) funds and the obligation limitation associated with such funds that will not be obligated by September 26, 2007, must be returned to the appropriate FHWA Headquarters Program Office. Non-formula (allocated) funds and the obligation limitation associated with such funds is officially released when the appropriate FHWA Headquarters Program Office notifies HCFB-1. The report on return of obligation limitation should be provided to both FHWA Headquarters Program Offices and to HCFB-1 via its official HCFB-1 mailbox, "FHWA, BudgetDivision".
  - c. By August 17, 2007, the Division Administrator must submit a report via e-mail to the HCFB-1 official mailbox and to the FHWA Headquarters Program Offices showing:
    - (1) by program, the amount of non-formula allocated authority that is being released by the State and returned to the appropriate FHWA Headquarters Program Office on August 15, 2007 **(NOTE: HCFB-1 will not redistribute the non-formula authority unless the FHWA Headquarters Program Office has officially released the non-**

**formula funds and the obligation limitation associated with such program); or**

- (2) that the State and Division Administrator have reached an agreement that the State will obligate available non-formula (allocated) funds by September 26, 2007. **The Federal funds that the States and the Division Administrators agree to release will result in a release of both obligation limitation and contract authority.**

**6. How is the obligation authority that was reserved for the Federal Lands Highway Program and programs controlled by FHWA Headquarters for FY 2007 redistributed?**

- a. Any non-formula (allocated) funds and the obligation authority associated with such funds that is not obligated by July 31, 2007, must be withdrawn and made available for redistribution, unless Federal Lands Highway and FHWA Headquarters Program Offices have firm commitments that the unobligated amounts will be obligated by September 26, 2007.
- b. No later than August 17, 2007, each Director and Program Manager shall report via e-mail the total obligations for each program and the amount that will not be obligated by September 26, 2007, to the official HCFB-1 mailbox, "FHWA, BudgetDivision".

**7. How is the authority that was reserved for other Federal agencies for FY 2007 redistributed?** Any other Federal agencies, such as, the Federal Motor Carrier Safety Administration, Federal Transit Administration, the Federal Railroad Administration, the National Highway Traffic Safety Administration, Internal Revenue Service, Denali Commission, etc., that received non-formula (allocated) funds and the obligation limitation associated with such funds, shall report via e-mail the total obligations for each program and the amount that will not be obligated by September 26, 2007, to the HCFB-1 official mailbox, "FHWA, BudgetDivision" and [Dedra.Goodman@dot.gov](mailto:Dedra.Goodman@dot.gov) by August 17, 2007.

**8. How will the released obligation authority be redistributed?** The formula for redistributing the released obligation authority is based on the requirements of Section 1102(d) of the SAFETEA-LU. Priority will be given to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, U.S.C.

**9. When will the excess FY 2007 obligation authority be redistributed?** The redistribution of released obligation authority will be accomplished by September 4, 2007.

**10. Is there program monitoring?** Yes. FHWA Headquarters will monitor the program on a national basis to ensure that all available authority subject to lapse on September 30, 2007, is fully used.

11. **What action is required?** Division Administrators must ensure that (1) the redistributed funds are obligated by September 26, 2007, and (2) that copies of this Notice are provided to State departments of transportation. The timeline for responses is as follows:
- a. August 13 - States must provide a plan to Division Administrators.
  - b. August 15 - Division Offices must provide non-formula (allocated) funds to the appropriate FHWA Headquarters Program Office.
  - c. August 17 - Division Offices, FHWA Headquarters Program Offices and other Federal Agencies must provide reports via e-mail to FHWA, BudgetDivision and [Dedra.Goodman@dot.gov](mailto:Dedra.Goodman@dot.gov).
  - d. September 4 - Released obligation authority will be redistributed.



J. Richard Capka  
Administrator

Attachment

## ATTACHMENT

\*\*\* SAMPLE REPORT FORMAT \*\*\*

STATE NAME  
FISCAL YEAR 2007

JULY 31 UNOBLIGATED BALANCE OF <u>FUNDS</u>	JULY 31 UNOBLIGATED BALANCE <u>LIMITATION</u>	AMOUNT WHICH COULD BE OBLIGATED BY <u>SEPTEMBER 26</u>	OBLIGATION LIMITATION <u>RELEASED</u>	ADDITIONAL LIMITATION <u>REQUIRED</u>
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FORMULA LIMITATION

NON-FORMULA FUNDS  
(BY APPROPRIATION CODE)

EXAMPLES:

INTERSTATE MAINTENANCE DISC.

NATIONAL SCENIC BYWAYS

FERRY BOATS/FERRY TERMINALS

VALUE PRICING PILOT PROGRAM

NON-FORMULA SUBTOTAL

TOTAL

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**NOTES:** Non-formula (allocated) funds that will not be obligated by September 26, 2007, and the obligation limitation associated with such funds, must be returned to the appropriate FHWA Headquarters Program Office by August 15, 2007.

Non-formula (allocated) funds and the obligation limitation associated with such funds is officially released when the appropriate FHWA Headquarters Program Office notifies the FHWA Office of Budget of the release by August 16, 2007.

The FHWA Office of Budget will not redistribute the non-formula authority unless the FHWA Headquarters Program Office has officially released the non-formula funds and the obligation limitation associated with such funds by August 16, 2007.

The funds that the States and the Division Administrators agree to release will result in a release of obligation limitation, not merely contract authority.