



# Memorandum

Subject: **ACTION:** Section 117 of Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 Allocation of Funds and Implementing Guidance **REPLY DUE by March 31, 2005**

Date: March 11, 2005

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

In Reply Refer To:  
HIPA-10

To: Division Administrators

Section 117 of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 (Division H of Consolidated Appropriations Act, 2005, Public Law 108-447) has appropriated \$1,211,360,000 for the surface transportation projects (795 projects) identified under this section in the Joint Explanatory Statement of the Managers in the Conference Report (House Report 108-792). This \$1,211,360,000 is reduced to \$1,201,669,120 under the provisions of the 0.80 percent across-the-board rescission in Section 122 of Division J of P.L. 108-447, and each project amount is decreased accordingly. These projects are being funded by a 4.1 percent takedown of all sums authorized and appropriated for the following programs: the Interstate Maintenance (IM) program, National Highway System (NHS) Program, Highway Bridge Replacement and Rehabilitation Program (HBRRP), Surface Transportation Program (STP), Congestion Mitigation and Air Quality Improvement (CMAQ) program, the Federal Lands Highway Program (FLHP), the Appalachian Development Highway System (ADHS) program, and the minimum guarantee program.

This funding is subject to obligation limitation, but, under the provisions of Section 117, this obligation limitation is available until used. The provisions of Section 2(e) of the Surface Transportation Extension Act (STEA) 2004, Part V (Public Law 108-310) set the obligation limitation for these Section 117 projects equal to 8/12ths of the designated amount listed for each project, after the 0.80 percent rescission. HABF has allotted this amount to our office under program code H660 (DELPHI fund 15X0R19L50-050) which has been established for the Section 117 projects.

At this time, we are allocating the contract authority that is equal to the obligation authority allotted. The balance of the contract authority for these projects will be provided when additional obligation authority becomes available, either through an additional extension of TEA-21, or with enactment of the multi-year reauthorization of TEA-21. At that time, we will allocate the remaining contract authority and obligation authority for these projects to the States.

We are, therefore, allocating \$801,112,747 of program code H660 funds 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. Also, the obligation authority for these projects is not subject to the annual August redistribution. 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 will be 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 its unique Demo ID that links the funding to the specific project description as listed in Section 117 of Division H of the Statement of the Managers in Conference Report 108-792. The Demo IDs under which these funds are being distributed are also included in the attachment to this memorandum.

This section also allows the Secretary to use amounts made available to make grants for any surface transportation project otherwise eligible for funding under Title 23 or Title 49 of the United States Code (U.S.C.). But because Section 117 of Division H of Public Law 108-447 links this funding to the projects "identified under this section in the statement of the managers accompanying this Act," the project descriptions in the attachment to this memorandum define the proposed scope of work and limits for which this funding may be used. Any changes to these project descriptions would have to be accomplished through a letter from the Senate and House Appropriations Subcommittee chairmen or legislation.

Section 117 also provides for transfer of these funds to another Federal agency at the request of the State. The funds that are transferred to another Federal agency shall then be administered under the procedures of that Federal agency. At this time, we are allocating all the funds to the States, as indicated in the attachment. We are also requesting that you forward by March 31, 2005 via email to Joseph Taylor ([joseph.taylor@fhwa.dot.gov](mailto:joseph.taylor@fhwa.dot.gov)) of my staff, all requests from your State to transfer these funds to another Federal agency. If there are administrative issues, which delay the transfer of these funds, the funds will be allocated to the other Federal agencies with the States approval. For requests received by March 31st, we will withdraw those funds and obligation authority from the States, and HABF will allocate these funds to the respective Federal agencies. It is, therefore, anticipated that these allocations to other Federal agencies will not occur until mid-April. Of course, if there are subsequent requests from the States to transfer funds, we will complete those transfers as they are received. We are giving the States until March 31st to help facilitate these transfers in an orderly manner, and minimize the number of allocations that must be issued by HABF. We anticipate that a single allocation would be issued to each Federal agency listing all the projects for which funding is being transferred to that agency. Any subsequent requests to transfer funds to a particular Federal agency would then require a revision to the previously issued allocation to that agency.

Under the provisions of 23 U.S.C. 308(a), the allocation of funds may be provided to Federal Lands Highways (FLH) for administration of projects. Also FLH will serve as the intermediary for projects being administered by Federal Land Management Agencies (i.e. National Park Service, Corps of Engineers, Forest Service, etc.). In their response regarding transfers to other Federal agencies, the State should also advise us of projects that will be administered through FLH.

In a, March 3, 2005, letter to the Secretary of Transportation, the Senate and House Appropriations Subcommittees provided clarifying information for several of these Section 117 projects. These corrections and clarifications are included in the project descriptions of the attachment.

By copy of this memorandum, the Finance Division of the Office of Budget and Finance is requested to process the allocations as listed in the attachment to this memorandum.

If you have any questions, please contact Joseph Taylor (202-366-1564) of my staff.

Attachment

FHWA:HIPA:JCTaylor:61564:03/11/05  
W:\HIPA-10\05\050311 Sec 117 alloc – States.doc

cc:

HIPA-1 (Horne) HIPA-10 (Barone, Vincent) HIPA-10 (Beidel) HIPA-10 (Taylor)  
HABF-10 (Napolliello) HABF-10 (Johnson, Deborah) HABF-10 (Caine)  
HABF-20 (Yonaitis, John) HABF-20 (Baskerville) HABF-20 (Jones, Donna)  
HABF-20 (Kelly, Joy K.) HABF-20 (Brunson, Sharon) HIF-1 (Jackson, Gina)  
HCC-30 (Rochlis)

Financial Managers