



# Memorandum

Subject: **ACTION:** Section 112 of the Transportation,  
Treasury, Housing and Urban Development, the  
Judiciary, District of Columbia, and  
Independent Agencies Appropriations Act, 2006  
REPLY DUE April 17, 2006

Date: March 22, 2006

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

Reply to  
Attn. of:

To: Division Administrators

Section 112 of Division A of the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006 (Public Law 109-115) has appropriated \$600,000 for the surface transportation projects (519 projects) identified under this section in the Statement of the Managers in the Conference Report (House Report 109-307). This amount is reduced to \$594,000,000 after applying the one percent across-the-board rescission set in Section 3801 of the Department of Defense Appropriations Act, 2006 (Public Law 109-148), which required each project amount be decreased accordingly. These projects are being funded by a takedown not to exceed 2.75 percent of all sums authorized and appropriated for the following programs: the Federal Lands Highway Program (FLHP), Surface Transportation Program (STP), Congestion Mitigation and Air Quality Improvement (CMAQ) program, the National Highway System (NHS) Program, Interstate Maintenance (IM) program, Highway Bridge Replacement and Rehabilitation Program (HBRRP), the Appalachian Development Highway System (ADHS) program, and the Equity Bonus Program.

We are, therefore, allocating \$594,000,000 of program code LY60 funds (DELPHI Code 15X043P000-050) 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 also subject to obligation limitation, however, it is special obligation limitation that is also 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 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 112 of Division A of the



Statement of the Managers in Conference Report 109-307. 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 112 of Division A of Public Law 109-115 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.

Additionally, section 112 allows for these funds to be transferred to another Federal agency, at the request of the State. 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 with 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.

Please forward all requests from your State to transfer funds to another Federal agency by April 17, 2006 via email to Joseph Taylor ([joseph.taylor@fhwa.dot.gov](mailto:joseph.taylor@fhwa.dot.gov)) of my staff. We are giving the States until April 17th to help facilitate these transfers in an orderly manner, and minimize the number of allocations that must be issued by the Office of the Chief Financial Officer (HCF). For requests received by April 17th, we will withdraw those funds and obligation authority from the States, and HCF will transfer or allocate these funds to the respective Federal agencies. We anticipate that a single allocation would be issued to each Federal agency by mid-May listing all the projects for which funding is being transferred to that agency. Subsequent requests from the States to transfer funds will be completed as they are received or possibly at scheduled intervals. Any subsequent requests to transfer funds to a particular Federal agency would then require a revision to the previously issued allocation to that agency. In cases where State Law prohibits a direct transfer to a Federal Land Management Agency (FLMA), Federal Lands Highway (FLH) will continue the practice of administering the project with the FLMA.

On January 12, 2006, the Secretary of Transportation received a letter from the Chairmen of the Senate and House Appropriations Subcommittees that provided clarifying information for several of these Section 112 projects. The Office of the Secretary of Transportation is currently preparing a response letter to the Subcommittee Chairmen outlining the Department’s position on the clarifications. The Secretary’s letter will be distributed to the States when finalized along with any changes.

By copy of this memorandum, we are requesting that the Finance Division of the Office of the Chief Financial Officer process this request.

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

Attachment

FHWA:HIPA:JCTaylor:61564:03/22/06

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cc:

HIPA-1 (Horne)      HIPA-10 (Barone, Vincent)    HIPA-10 (Beidel)      HIPA-10 (Taylor)  
HCF-10 (Park, Thomas)      HCF-10 (Johnson, Deborah)    HCF-20 (FMIS Team)  
HIF-1 (Jackson, Gina)      HCC-30 (Shaw, Alla)    HCC-30 (Rochlis, Steve)

Financial Managers