



Memorandum

Subject: **ACTION:** Section 129 of the Consolidated
Appropriations Act, 2008

Date: February 29, 2008

Dwight A. Horne

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

Reply to
Attn. of: HIPA-10

To: Division Administrators

Section 129 of Division K of the Consolidated Appropriations Act, 2008 (Public Law 110-161) identifies 392 projects totaling \$339,774,700 for the surface transportation priorities. The project descriptions can be found in the *Joint Explanatory Statement to Accompany the Consolidated Appropriations Amendment*. This amount is reduced to \$332,979,206 after applying the two percent rescission set in Section 129 of the Act. These projects are being funded with revenue aligned budget authority (RABA) authorized for fiscal year 2008, under section 110 of title 23, United States Code, as amended by Section 129.

With this memorandum, we are allocating \$324,747,206 of program code LY90 funds (DELPHI code 15X043A050.0000.050LY90500) to the States, with an equal amount of obligation authority, for 390 of the 392 projects, as indicated in the attachment to this memorandum. The funding for the remaining two projects is being provided in a separate action.

These funds are available until expended, and the Federal share is 100 percent. These funds are subject to obligation limitation, but 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 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 129 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 Chad Thompson at 202-366-1564.

Attachment

