



U.S. Department
of Transportation

Federal Highway
Administration

Memorandum

Subject: **ACTION:** Puerto Rico Highway Program (PRHP)
Implementation Guidance as Revised by the FAST Act

Date: February 24, 2016

In Reply Refer To:

From: /s/ Walter C. Waidelich, Jr
Associate Administrator for Infrastructure

To: James S. Christian
Division Administrator
San Juan Puerto Rico

On December 4, 2015, the President signed into law the Fixing America's Surface Transportation Act (FAST Act) (P.L. 114-94). The FAST Act amended 23 U.S.C. 165, the Territorial and Puerto Rico Highway Program (PRHP). The attached PRHP Implementation Guidance provides information on funding, eligible activities, and requirements of the PRHP. Guidance for the Territorial Highway Program will be issued separately.

This memorandum supersedes the "PRHP Implementation Guidance" dated March 20, 2013.

The effective date of this FAST Act PRHP Implementation Guidance is October 1, 2015. The PRHP requirements in effect on October 1, 2015, will apply to all PRHP obligations made on or after that date.

This document will be accessible on the FAST Act Web site (<http://www.fhwa.dot.gov/fastact/>) and through the Policy Guidance Center (<https://www.fhwa.dot.gov/pgc/>).

If you have any questions, please contact Mr. David Bartz (512)536-5906 or Mr. Peter Kleskovic (202)366-4652 of the Office of Program Administration.

Attachment

cc: FHWA-#ALLHQUNITS-OfficialMailbox
HIPA_ALL
FHWA, PuertoRico
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Superseded

Puerto Rico Highway Program (PRHP) Implementation Guidance

A. PROGRAM PURPOSE

To carry out a highway program in the Commonwealth of Puerto Rico.

B. GOVERNING AUTHORITIES

1. Section 1101(a)(4) of the Fixing America's Surface Transportation Act (FAST Act) authorizes funds for the PRHP.
2. Section 1115 of the FAST Act amends the PRHP under 23 U.S.C. 165.
3. 23 U.S.C 165 Territorial and Puerto Rico Highway Program provides program requirements.

C. FUNDING

1. **Authorization Levels:** The FAST Act authorizes \$158,000,000 annually for fiscal years 2016 through 2020 for the PRHP.

The Fiscal Management Information System (FMIS) program codes are as shown below.

- ZP10 – Puerto Rico Highway, 25%
- ZP20 – Puerto Rico Highway, NHPP 50%
- ZP30 – Puerto Rico Highway, HSIP 25%
- ZP40 – Puerto Rico – Section 154 Penalty HSIP Eligible Activities
- ZP50 – Puerto Rico – Section 164 Penalty HSIP Eligible Activities

This allocated program is subject to the redistribution of certain authorized funds provision under Section 1102(f) of the FAST Act. This “lop-off” provision requires that each fiscal year any authorized funds that exceed the amount of obligation limitation provided for the program be deducted and then distributed to the States for use on projects eligible under the Surface Transportation Block Grant Program. Therefore, the above authorized amounts will be reduced to the amount of obligation limitation available for the program.

2. **Period of Availability:** PRHP funds are contract authority. PRHP obligations are reimbursed from the Highway Account of the Highway Trust Fund. PRHP funds are available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized. Thus, funds are available for obligation for 4 fiscal years.

PRHP funds made available under previous authorizations continue to be available for their original period of availability, but new obligations must follow the requirements and eligibilities of 23 U.S.C. 165, as amended by the FAST Act.

3. **Obligation Limitation:** PRHP funds are subject to the annual obligation limitation imposed on the Federal-aid highway program. They are also subject to August Redistribution per Section 1102(d) of the FAST Act. Any PRHP funds that cannot be

obligated by the end of the fiscal year will be withdrawn after August 1 and the obligation limitation will be distributed to the States. The funds and carryover obligation limitation will be returned to Puerto Rico in the following fiscal year if the funds have not lapsed.

4. **Federal Share:** The Federal share is governed by 23 U.S.C. 120. It is generally 80 percent. A project to add one or more lanes on the Interstate System (other than high-occupancy-vehicle or auxiliary lanes) has a Federal share of 80 percent; any other project on the Interstate System generally has a Federal share of 90 percent.

An upward sliding scale adjustment is available to Puerto Rico.

(<http://www.fhwa.dot.gov/legsregs/directives/notices/n4540-12.cfm>).

Certain types of improvement, predominantly safety improvements as listed in 23 U.S.C. 120(c)(1) may have a Federal share of 100 percent. See the memo “Increased Federal Share under 23 U.S.C. 120(c)(1)”, dated November 25, 2014.

(<http://www.fhwa.dot.gov/federalaid/141125.cfm>)

The Federal share for projects that are located on toll roads, and subject to the provisions of 23 U.S.C. 129, is limited to 80 percent.

The Federal share for projects that use funds set-aside due to penalties under 23 U.S.C. 154(c)(4) and 164(b)(4) for eligible activities under 23 U.S.C. 148, the Highway Safety Improvement Program, is 100 percent.

Puerto Rico may choose to use a lower Federal share on Federal-aid projects as provided in 23 U.S.C. 120.

5. **Imposition of Penalties:** The PRHP is subject to applicable penalties under title 23 and title 49. 23 U.S.C. 165(b)(2) establishes that amounts provided for the program are to be treated as being apportioned under Sections 104(b) and 144, as in effect for fiscal year 1997, of title 23, U.S.C., and identifies the method for applying the penalty.

D. ELIGIBILITY

1. 50 percent of the funds may only be used for purposes eligible under the National Highway Performance Program (23 U.S.C. 119, as amended by the FAST Act),
2. 25 percent of the funds may only be used for the purposes eligible under the Highway Safety Improvement Program (23 U.S.C. 148, as amended by the FAST Act), and
3. 25 percent of the funds may be used for any purpose eligible under Chapter 1 of title 23.

E. ADMINISTRATION

The definition of State in 23 U.S.C. 101(a) includes Puerto Rico. Therefore, all provisions of title 23, other than those for apportionment of funds, apply to Puerto Rico and the funds provided under the PRHP.