



U.S. Department  
of Transportation  
Federal Highway  
Administration

# Memorandum

Subject: **ACTION:** SAFETEA-LU Section 1806, Additional  
Authorization To States with Indian Reservations  
FY 2009 Allocation – Arizona, New Mexico and Utah

*Dwight A. Horne*

Date: March 17, 2010

In Reply  
Refer To: HIPA-10

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

To: See Addressees

Section 1806 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, P.L. 109-59) amended Section 1214(d)(5)(A) of the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) that provided additional funding for States that have within their boundaries all or part of an Indian reservation, having a land area of 10,000,000 acres or more. The only Indian reservation meeting this criterion is the Navajo Indian Reservation in Arizona, New Mexico, and Utah. Under the provision of Section 1214(d)(1), these funds are to be equally divided among the three States.

Each County within any of these three States, that has a public road meeting the following criteria, is eligible to apply to the State for these funds to be used to maintain these public roads. The public road must be:

1. One that is within, adjacent to, or provides access to the Indian reservation described above;
2. Used by a school bus to transport children to or from school or head start program carried out under the Head Start Act; and
3. Maintained by the County in which the road is located.

The State shall provide the funding directly to each county based on the amount requested. If more funding is requested from the counties than is available to the State, the State shall determine an equitable distribution of funds among the eligible counties that apply. These funds are to supplement, not replace, any funding provided by the Bureau of Indian Affairs for road maintenance on Indian reservations or any funding provided by the State to the county for road maintenance.

These funds are provided to the States and their sub-grantees on a reimbursable basis and are to be administered according to Title 23 provisions. The Federal share for these funds is to be determined in accordance with 23 U.S.C. §120.



If the funds are used for a project on a Federal-aid highway that lies within the Indian reservation 23 U.S.C. §120(f) may be applied.

In accordance with Section 1214(d)(5)(A) of TEA-21, as amended by Section 1806 of SAFETEA-LU, \$1,800,000 is available from the Highway Trust Fund each of the fiscal years from 2005 through 2009. In applying the provisions of Section 1102(f) of SAFETEA-LU concerning redistribution of certain allocated funds, only the amount for which obligation authority is provided will be made available. For FY 2009, only \$1,684,800 of this \$1,800,000 was available after the FY 2009 obligation limitation of 93.6 percent is applied. The remaining funds will not be available for this activity, but instead are distributed to the States in accordance with Section 1102(f) of SAFETEA-LU.

We are, therefore, allocating \$561,600.00 of program code LJ90 funds, (DELPHI Accounting string 15X0R57050-050), each to Arizona, New Mexico and Utah, with an equal amount of obligation authority. In accordance with Section 1214(d)(4), any of these funds that are not obligated within one year, will be withdrawn and apportioned among all the States in accordance with 23 U.S.C. §104(b).

This allocation of funds and accompanying obligation authority are available only for purposes set forth in this memorandum. Any funds that will not be obligated by the end of FY 2010 will be withdrawn, with an equal amount of obligation authority, for the August redistribution of obligation authority. Any funds we withdraw will be reallocated the following fiscal year with an equal amount of obligation authority. If they are not subsequently obligated by March 10, 2011, they will be withdrawn in accordance with Section 1214(d)(4), as discussed above.

By copy of this memorandum, the Office of Financial Management is requested to process this allocation.

If you have any question, please contact Joseph Taylor at 202-366-1564.

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