



U.S. Department
of Transportation
**Federal Highway
Administration**

Memorandum

Subject: **ACTION:** Allocation of Highway Infrastructure Programs Projects designated in Division L of the Consolidated Appropriations Act, 2023 [CFDA No. 20.205]

Date: March 21, 2023

In Reply
Refer to: HISM-40

From: Peter J. Stephanos
Director, Office of Stewardship, Oversight,
and Management

To: Brian R. Bezio
Chief Financial Officer

Division Administrators

The Consolidated Appropriations Act, 2023 (Public Law 117-328) appropriates a total of \$3,417,811,613 for Highway Infrastructure Programs (HIP) from the General Fund of the Treasury for fiscal year (FY) 2023. Of such amount, \$1,862,811,613 is set aside for “Community Project Funding / Congressionally Directed Spending.” The project descriptions for the 562 projects can be found in the “Community Project Funding / Congressionally Directed Spending” table in the Joint Explanatory Statement incorporated by reference in Division L of the Consolidated Appropriations Act, 2023, and are also included in the attachment to this memo. With this memorandum, FHWA is allocating \$1,851,971,613 for 557 projects to State departments of transportation (DOTs). The Office of Federal Lands Highway (FLH) will distribute funding for five tribal community projects totaling \$10,840,000. These funds are in addition to any other funds, including contract authority, provided in FY 2023. This funding is not subject to any obligation limitation that applies to Federal-aid contract authority.

With this memorandum, we are requesting the Budget Execution Team in the Office of Budget to allocate in the Fiscal Management Information System (FMIS) **\$1,851,971,613** for **557** projects to the States, as indicated in the attachment to this memorandum (**FMIS program code Y926; DELPHI fund value 1530569B50.**)

These funds remain available for obligation through September 30, 2026. Any such amounts not obligated on or before September 30, 2026, shall expire. Once the period for obligation

has expired, these funds will only remain available for adjusting and liquidating obligations as authorized in accordance with title 31, United States Code (U.S.C.), section 1553. Obligated earmark balances are available for expenses properly charged to the account and incurred until September 30, 2031. After that date, any unexpended balances shall be cancelled in accordance with 31 U.S.C. 1552 and shall no longer be available for obligation or expenditure.

Demo IDs have been assigned for each project to properly track these funds to ensure that they are only obligated and expended for the specific project for which they were designated. Each project has been assigned a unique Demo ID that links the funding to the specific project description as listed in the Joint Explanatory Statement accompanying the Consolidated Appropriations Act, 2023. Since the project description defines the scope of work on which the funds may be legally expended, the funding for the project can only be utilized for the activities within the scope and physical limits of the project as defined by the project description. The Demo IDs under which these funds are being distributed are also included in the attachment to this memorandum.

Except as otherwise provided, these funds are to be administered as if apportioned under chapter 1 of title 23, U.S.C.¹ Therefore, these projects are to be administered as title 23 projects in accordance with the applicable statutory and regulatory provisions contained in title 23, U.S.C. and Code of Federal Regulations (CFR), as well as other applicable Federal requirements, such as the National Environmental Policy Act (42 U.S.C. 4321, et seq.) and the Disadvantaged Business Enterprise Program. The State, through its DOT in accordance with 23 U.S.C. 302, is the direct recipient of funds allocated by this memorandum and is responsible for administration of these funds. If the State DOT acts as a pass-through entity of Federal assistance, the State DOT maintains the passthrough responsibilities specified in 2 CFR 200.332 and 23 U.S.C. 106(g)(4).

The maximum Federal share for these State projects is governed by 23 U.S.C. 120, as amended. It is generally 80 percent (See 23 U.S.C. 120(b)). The maximum Federal share for projects on the Interstate System is 90 percent unless the project adds lanes that are not high-occupancy-vehicle or auxiliary lanes (See 23 U.S.C. 120(a)). For projects that add single occupancy vehicle capacity, that portion of the project will revert to the 80 percent level. An upward sliding scale adjustment is available to States having public lands ([Sliding Scale Rates In Public Land States](#)). States may use a lower Federal share on Federal-aid projects as provided in 23 U.S.C. 120(h). These funds may not be used as the non-Federal match for other Federal programs unless there is specific statutory authority (2 CFR 200.306(b)(5)). The Consolidated Appropriations Act, 2023, does not provide authority for use of these funds as a non-Federal match for other Federal programs, including Federal-aid programs under title 23, U.S.C.

Generally, Project Agreements should not be modified to replace one Federal fund category with another unless specifically authorized by statute (23 CFR 630.110(a)). For additional information on earmarked funds, see [Q&As on Obligation of Earmarked Funds for Federal-Aid Projects](#).

¹ Tribal projects funded from these amounts are to be administered as if allocated under chapter 2 of title 23, U.S.C.

Earmarked funds shall not participate in costs incurred prior to the date of project agreement (23 CFR 630.106(b)).

By copy of this memorandum, we request that the Budget Execution Team (HCFB-12) in the Office of Budget:

- 1) enter the Demo IDs identified in the attached table, and
- 2) process these allocations.

If there are any questions, please contact Tony DeSimone at 317-226-5307 or by email at Anthony.DeSimone@dot.gov.

Attachment