

Memorandum

To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: September 26-27, 2012

Reference No.: 4.6
Action Item

From: NORMA ORTEGA
Chief Financial Officer

Prepared by: Denix D. Anbiah
Division Chief
Local Assistance

Subject: **STATUS OF FEDERAL EARMARKS**

SUMMARY:

On August 16, 2012, the Federal Highway Administration (FHWA) Administrator issued a Memorandum entitled 'Reallocation of Unobligated Balances of FY 2003-2006 DOT Appropriations Acts Projects' (see attachment). The purpose of this memorandum was to implement the United States Department of Transportation (US DOT) Secretary's decision to authorize States, subject to FHWA review and approval, the ability to reallocate unobligated funds for projects designated in Federal Fiscal Year (FFY) 2003 through 2006 US DOT Appropriations Acts. By October 1, 2012 the California Department of Transportation (Department) must provide FHWA a preliminary list of projects proposed to be funded with the unobligated balances. The DOT Secretary is granting California authority to use these funds for surface transportation projects eligible for assistance under Title 23 or Title 49 of the United States Code. The FHWA deadline for the Department to obligate these funds is December 31, 2012. After this deadline, any funds remaining will be redistributed to other states. In California, there are 71 designated projects that are being reviewed for potential reallocation. This report provides an update on the Department's efforts to obligate all of these funds by December 31, 2012 and potentially compete for funds left unobligated by other states.

BACKGROUND:

The High Priority Projects Program/Demonstration Program manages funding for more than \$3 billion dollars and over 800 designated projects made available to hundreds of cities, counties, and regional agencies for the purpose of improving their transportation infrastructure and providing transportation services. This funding comes from various federal appropriations acts and multi-year transportation acts such as the Intermodal Surface Transportation Efficiency Act, the Transportation Equity Act - for the 21st Century, and the Safe, Accountable, Flexible, Efficient, Transportation, Equity, Act: A Legacy for Users.

Historically, California has been the recipient of approximately 10 percent of all federal funds made available nationally to the program. The Department has worked with its local partners to deliver approximately \$2 billion dollars in projects from this program to date.

CURRENT STATUS:

In response to the FHWA Memorandum, the Department has reached out to the sponsors of these designated projects to determine if they will be submitting a Request for Authorization (RFA) for the original designated project or allow the funds to be reallocated to other project(s) within their region. Sponsors have already responded to inquiries and identified funds to be reallocated.

On September 7, 2012, the Department started requesting the RTPAs to identify alternate projects for the funds available for reallocation. The RTPA's response to this request is due to the Department by September 19, 2012. The list of alternate projects will be provided to the Commission at the September 26-27th meeting.

The Department is working with the agencies to have them submit all RFA's for both the previously designated and the newly identified alternate projects. The deadline set for all agencies to submit their completed RFA to the Department is November 1, 2012. In order to ensure all these funds are obligated by December 31, 2012 and to enable California compete for funds left unobligated by other states, if the RFA for any of these projects is not received by the Department by November 1, 2012, funds will be reprogrammed for project(s) selected by the Department which may not be within the same Region.

RECOMMENDATION:

The response from the original project sponsors and the list of alternate projects submitted by the RTPAs will be provided to the Commission at the meeting, with the Department's recommendation that the Commission approves the alternate project list. This list needs to be submitted to FHWA by October 1, 2012.

Attachment



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

Memorandum

Subject: **ACTION:** Reallocation of Unobligated
Balances of FY 2003-2006
DOT Appropriations Acts Projects

Date: August 16, 2012

From: Victor M. Mendez
Administrator

In Reply Refer To:
HCF-1

To: Directors of Field Services
Division Administrators

The purpose of this memo is to implement the Secretary's decision to authorize States, subject to FHWA review and approval, to reallocate unobligated funding from projects designated in FY 2003-2006 Department of Transportation Appropriations Acts. Allowing these funds to be used on other eligible projects will serve to put Americans back to work by moving funding off of stalled projects and using those resources to construct and improve other vital surface transportation infrastructure. FHWA Divisions should work with their State DOT and other partners to promptly implement the reallocation of funds according to the procedures outlined below.

Background

Congress granted the Secretary of Transportation broad discretion "notwithstanding any other provision of law" to use amounts made available under certain general provisions contained in the FY 2003-2006 DOT Appropriations Acts to make grants for any surface transportation project eligible for assistance under title 23 or title 49, U.S.C. An FHWA review of the unobligated balances for projects designated in the four acts¹ identified approximately \$470 million remaining for nearly 700 projects in 49 States, the District of Columbia, Guam, and Puerto Rico. The list of projects with unobligated balances as of August 15, 2012, is attached.

Process for Reallocation

By October 1, 2012, States must provide to the appropriate FHWA Division Office a preliminary list of projects proposed to be funded by the unobligated balances remaining from the four acts. States may choose to refocus the funds or utilize the funds on the originally designated projects. The Division Offices will review the proposed projects for eligibility and submit a list of preliminarily approved projects to the Office of Program Administration no later than October 15, 2012.

¹ See P.L. 108-7, Division I, Section 330; P.L. 108-199, Division F, Section 115; P.L. 108-447, Division H, Section 117; and P.L. 109-115, Division A, Section 112.

By December 31, 2012, States must obligate all funding subject to this reallocation². Prior to that deadline, States must provide a final list of projects to the Division Office. The Division Office will review the proposed projects for eligibility and submit the list of approved projects to the Office of Program Administration. The Office of Program Administration will then issue funding allocation memos for the approved projects as necessary.

Eligibility of Funds

Unobligated balances of funds in these acts may be used for surface transportation projects eligible for assistance under title 23 or title 49, U.S.C. Eligible uses of this funding include surface transportation projects or other surface transportation activities eligible for assistance under title 23 or title 49 related to and benefiting surface transportation. Examples of eligible uses include:

- highway or bridge construction or rehabilitation projects;
- highway safety projects;
- congestion mitigation and air quality projects;
- transportation enhancements and recreational trail activities;
- motor carrier safety related activities eligible under title 49;
- transit projects eligible under title 49;
- rail highway grade crossings and eligible rail projects eligible under title 49;
- port access projects and port activities and improvements eligible under title 23.

Deadline for Obligation

The Secretary is granting this authority to use the funding on eligible title 23 and title 49 projects under the condition that any funds not obligated by the deadline will be redistributed to other States that met the December 31 deadline. The funds will be redistributed proportional to the FY 2013 formula obligation limitation distributed to the States and FY 2013 obligation limitation associated with the Puerto Rico Highway Program and Territorial Highway Program made available to Puerto Rico and Guam, respectively, as in effect at the time of the redistribution, and must be obligated by September 30, 2013.

² See Program Codes D030, H170, H660, LY60, LY70.