



U.S. Department
of Transportation

**Federal Highway
Administration**

Notice

Subject:
**FEDERAL-AID HIGHWAY PROGRAM OBLIGATION LIMITATION –
FISCAL YEAR 2011 REDISTRIBUTION AFTER AUGUST 1, 2011
(AUGUST REDISTRIBUTION)**

Classification Code	Date	Office of Primary Interest
N4520.210	July 20, 2011	HCFB-1

1. **What is the purpose of this Notice?** This Notice provides procedures governing the determination and redistribution of unneeded balances of Fiscal Year (FY) 2011 obligation limitation subject to lapse on September 30, 2011. The redistribution is pursuant to the Full-Year Continuing Appropriations Act, 2011, division B of Public Law (Pub. L.) 112-10 (which continues section 120(c) of the Department of Transportation Appropriations Act, 2010, division A, title I of Pub. L. 111-117) and is subject to the prohibition required by section 1201(b) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5.

2. **What is the background information?**
 - a. The Full-Year Continuing Appropriations Act, 2011, provides for the redistribution, after August 1, 2011, of any obligation limitation distributed to a State for FY 2011 that is subject to lapse on September 30, 2011, if the State cannot obligate the limitation during the fiscal year (effectively September 26, 2011, the last day to obligate Federal-aid highway program funding through the Fiscal Management Information System (FMIS)).

 - b. Any obligation limitation that is available until expended (not subject to lapse) or is available for multiple fiscal years—whether distributed to a State for FY 2011 or for a prior fiscal year—is not subject to redistribution and should not be included in the responses required by this Notice. The no-year and multiyear obligation limitation not subject to redistribution includes:
 - (1) Obligation limitation made available for transportation research programs carried out under chapter 5 of title 23, United States Code (U.S.C.), and title V of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, which remains available for 3 fiscal years. **Please note that FY 2009 transportation research obligation limitation is subject to lapse if not obligated by September 26, 2011.**

 - (2) Special obligation limitation that is available until expended associated with the Equity Bonus Program, the Appalachian Development Highway System Program, High Priority Projects, Projects of National and Regional Significance, the National Corridor Infrastructure Improvement Program, Transportation Improvements, and the Bridge

Set-asides, and any other special obligation limitation that is available until expended.

- c. When determining unneeded balances of obligation limitation distributed for FY 2011, obligation limitation initially distributed as formula obligation limitation and obligation limitation initially reserved from the distribution to support the obligations of non-formula (allocated) programs will be identified separately and included in separate responses as outlined below.

3. How was the obligation limitation distributed for FY 2011?

- a. A total of \$41.107 billion in annual obligation limitation was distributed for FY 2011.
- b. The majority of the obligation limitation, totaling \$33.895 billion, was distributed as formula obligation limitation to the States in FY 2011. This obligation limitation is available for FY 2011 only and is subject to lapse on September 30, 2011.
- c. An additional \$4.396 billion of obligation limitation was reserved from the distribution and used to support the allocation of non-formula (allocated) programs, the Federal Lands Highway Program, Transportation Research, and administrative funds.
- d. In addition, \$2.481 billion of obligation limitation was reserved for distribution as a special (no-year) obligation limitation for the Equity Bonus Program, the Appalachian Development Highway System Program, and undesignated High Priority Projects. This obligation limitation is not subject to redistribution and is available until expended.
- e. The remaining \$334 million of obligation limitation was reserved for transfer to meet the provisions of section 154 of 23 U.S.C. (Open Container Requirements) and section 164 of 23 U.S.C. (Minimum Penalties for Repeat Offenders for Driving While Intoxicated or Driving Under the Influence).

4. What response is required regarding unobligated FY 2011 formula obligation limitation?

- a. Each State department of transportation must devise a plan, in consultation with the Federal Highway Administration (FHWA) Division Office, and send that plan to the State FHWA Division Administrator **by August 2, 2011**. When formulating the plan, the State must check in the FMIS to confirm the unobligated balances. The plan from the State must include the following information:
 - (1) The amount of formula obligation limitation that has not been obligated;

- (2) The projects and/or Federal funds that will be obligated by the State no later than September 26, 2011;
 - (3) The formula obligation limitation in excess of amounts that can be obligated this fiscal year and that is released by the State for redistribution; and
 - (4) Any additional formula obligation limitation that the State could obligate by September 26, 2011, if additional limitation were provided.
- b. The Division Administrator must review the plan submitted by the State and reach an agreement with the State on those projects that can be approved and authorized by the Division Office on or before September 26, 2011. The State and Division Office must ensure that the amounts to be returned for August Redistribution are not obligated prior to being released for redistribution.
- c. **By August 10, 2011**, the Division Administrator must submit a report to FHWA's Office of Budget (HCFB-1) based on the review of the plan submitted by the State and the agreement reached with the State. The report should be submitted **via e-mail to the HCFB-1 official mailbox ("FHWA, BudgetDivision")**. **See Attachment 1 for the required report template.** The Division Administrator should also copy the report to Steven.Frankel@dot.gov. When submitting the report, please include in the e-mail subject line the following: "Response to Call for August Redistribution (N4520.210)_[insert name of State]."
5. **What response is required regarding unobligated FY 2011 obligation limitation distributed to support obligation of non-formula (allocated) funds?**
- a. Each State department of transportation must devise a plan, in consultation with the Division Office, and send that plan to the State FHWA Division Administrator **by August 2, 2011**. When formulating the plan, the State must check in the FMIS to confirm the unobligated balances. The plan from the State must include the following information:
 - (1) By program, the amounts of non-formula (allocated) funds and associated obligation limitation that have not been obligated;
 - (2) By program, the amounts of non-formula (allocated) funds and associated obligation limitation that could be obligated by September 26, 2011; and
 - (3) By program, the amounts of non-formula (allocated) obligation limitation in excess of amounts that can be obligated this fiscal year and that are to be released by the State for redistribution.

- b. The Division Administrator must review the plan submitted by the State. The Division Administrator and the State shall reach an agreement on which non-formula (allocated) funds and associated obligation limitation will be obligated no later than September 26, 2011. The Division Administrator, in consultation with the State, shall determine the amounts of FY 2011 obligation limitation initially distributed to support the obligation of non-formula (allocated) funds that cannot be obligated by September 26, 2011, and will be released by the State for redistribution. The State and Division Office must ensure that the amounts to be returned for August Redistribution are not obligated prior to being released for redistribution.
- c. **By August 10, 2011**, the Division Administrator must submit a report **via e-mail to the HCFB-1 official mailbox (“FHWA, BudgetDivision”)** based on the review of the plan submitted by the State and the agreement reached with the State. **See Attachment 2 for the required report template.** The Division Administrator should also copy the report to Steven.Frankel@dot.gov. When submitting the report, please include in the e-mail subject line the following: “Response to Call for August Redistribution (N4520.210)_[insert name of State].”
- d. The non-formula (allocated) funds that the States and the Division Administrators agree to release will result in the release of both obligation limitation and contract authority.
- e. The Office of Budget will not redistribute obligation limitation that has been allocated to a State unless the FHWA Headquarters Program Office officially releases the non-formula (allocated) funds and the obligation limitation associated with such program. The FHWA Headquarters Program Offices will issue deallocation/withdrawal memos requesting that the funds and associated obligation limitation be deallocated/withdrawn in the FMIS based on the compiled responses that HCFB-1 sends to the Program Offices (if the deallocation/withdrawal has not been previously requested). The FHWA Headquarters Program Offices must make all August Redistribution deallocation/withdrawal requests and release associated obligation limitation **by August 23, 2011.**
- f. The response regarding unobligated FY 2011 obligation limitation distributed to support obligation of non-formula (allocated) funds should include the obligation limitation distributed to support obligation of the allocated funds provided under section 157(d) of Pub. L. 111-68 (program code L00E). Therefore, if applicable, the plan submitted by a State to the State FHWA Division Administrator on August 2, 2011, and the Attachment 2 response submitted by the Division Administrator to HCFB-1 on August 10, 2011, should include L00E allocated funds and associated obligation limitation. Based on the Attachment 2 responses, HCFB-1 and the FMIS Team will remove the L00E funds and associated obligation limitation that cannot be

obligated by September 26, 2011, from the FMIS in order to release the obligation limitation for redistribution.

6. **What response is required regarding unobligated FY 2011 obligation limitation that was reserved for the Federal Lands Highway Program or programs controlled by FHWA Headquarters?**
 - a. Any non-formula (allocated) funds and the associated obligation limitation that is not obligated by August 1, 2011, must be withdrawn and made available for redistribution, unless Federal Lands Highway and FHWA Headquarters Program Offices have firm commitments that the unobligated amounts will be obligated by September 26, 2011. Federal Lands Highway and the Program Offices must ensure that the amounts to be returned for August Redistribution are not obligated prior to being released for redistribution.
 - b. **No later than August 10, 2011**, each Director and Program Manager shall submit a report **via e-mail to the official HCFB-1 mailbox (“FHWA, BudgetDivision”)** showing the amounts that will not be obligated by September 26, 2011, and for which the obligation limitation is being released for redistribution. **See Attachment 2 for the required report template.** The Director or Program Manager should also copy the report to Steven.Frankel@dot.gov. When submitting the report, please include in the e-mail subject line the following: “Response to Call for August Redistribution (N4520.210)_[insert name of Program Office or Federal Lands Highway].”
7. **What response is required regarding unobligated FY 2011 obligation limitation that was reserved for other Federal Agencies?**
 - a. Other Federal Agencies, such as the Federal Motor Carrier Safety Administration, the Federal Transit Administration, the Federal Railroad Administration, the National Highway Traffic Safety Administration, the Internal Revenue Service, the Denali Commission, etc., that received non-formula (allocated) funds and the obligation limitation associated with such funds, must determine the amounts of obligation limitation that will not be obligated by September 26, 2011, and which are therefore being released for redistribution. Other Federal Agencies must ensure that the amounts to be returned for August Redistribution are not obligated prior to being released for redistribution.
 - b. **No later than August 10, 2011**, other Federal Agencies shall submit a report showing what amounts are being returned for August Redistribution **via e-mail to the HCFB-1 official mailbox (BudDiv@dot.gov).** **See Attachment 2 for the required report template.** The agency should also copy the report to Steven.Frankel@dot.gov. When submitting the report, please include in the subject line the following: “Response to Call for August Redistribution (N4520.210)_[insert name of Federal Agency].”

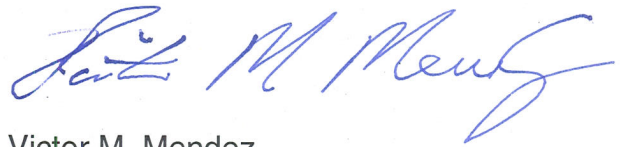
8. **What procedure will be followed once HCFB-1 has received the required reports?** Once HCFB-1 has received the reports, it will compile the responses and forward them to the appropriate FHWA Headquarters Program Offices and other Federal Agencies. The Program Offices and other Federal Agencies will then review the compiled responses, with the Program Offices consulting any relevant States (via the Division Offices) or other Federal Agencies as needed. In addition, the Program Offices will issue any necessary deallocation/withdrawal memos. Once the Program Offices and other Federal Agencies have finalized the responses, HCFB-1 and the FMIS Team will complete the steps needed to redistribute the obligation limitation that has been returned for August Redistribution.
9. **How will the released obligation limitation be redistributed?**
- a. Consistent with section 120(c) of the Department of Transportation Appropriations Act, 2010 (as continued by the Full-Year Continuing Appropriations Act, 2011), priority in redistribution will be provided to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, U.S.C.
 - b. Pursuant to section 1201(b) of the American Recovery and Reinvestment Act of 2009, a State that has failed to meet the maintenance of effort requirement under section 1201(a) of such Act is prohibited from receiving additional limitation under the redistribution of Federal-aid highway program obligation limitation that occurs after August 1 for FY 2011. It has been determined that the following States have failed to meet the maintenance of effort requirement and, therefore, are not eligible to receive additional formula obligation limitation under the redistribution being implemented by this Notice:

Alaska, Delaware, Idaho, Kansas, Maryland, and New York

Note that these States must still submit the required Attachment 1 and Attachment 2 responses in order to indicate any obligation limitation that is being released by the State for redistribution.
10. **When will the excess FY 2011 obligation limitation be redistributed?** The target to complete redistribution of released obligation limitation will be September 8, 2011.
11. **Is there program monitoring?** Yes. FHWA Headquarters will monitor the program on a national basis to ensure that all available obligation limitation subject to lapse on September 30, 2011, is fully used.
12. **What actions are required?** Division Administrators must ensure (1) that copies of this Notice are provided to State departments of transportation, and (2) that the redistributed obligated limitation is used by September 26, 2011. In addition, States/Division Offices, FHWA Headquarters Program Offices, and other Federal

Agencies must provide their responses to this Notice. The timeline for responses is as follows:

- a. **August 2:** States must provide their plans for formula and non-formula (allocated) obligation limitation to the Division Administrators.
- b. **August 10:** Division Offices, FHWA Headquarters Program Offices, and other Federal Agencies must provide reports **via e-mail to the HCFB-1 official mailbox ("FHWA, BudgetDivision")**.
- c. **August 23:** FHWA Headquarters Program Offices must make all August Redistribution deallocation/withdrawal requests and release associated obligation limitation.



Victor M. Mendez
Administrator

Attachments

**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION**

Attachment 1

**FISCAL YEAR (FY) 2011 REDISTRIBUTION AFTER AUGUST 1, 2011
Report to HCFB-1 on FY 2011 Formula Obligation Limitation**

State: _____

Unobligated Balance of Formula Obligation Limitation	Amount of Formula Obligation Limitation that could be Obligated by Sept. 26, 2011	Formula Obligation Limitation Released for Redistribution Among Other States	Additional Formula Obligation Limitation that could be used by Sept. 26, 2011
\$0.00	\$0.00	\$0.00	\$0.00

* Note: shaded cells contain formulas.

