



March 24, 2025

## **ACTION MEMORANDUM TO THE SECRETARY**

**From:** James O. Payne, III  
Chief Counsel  
202-843-4512

**Prepared by:** Brian R. Bezio  
Chief Financial Officer  
X69891

**Subject:** Proceeding with Allocated Non-Competitive Programs Funded through  
the Federal-aid Highway Program and the Highway Infrastructure  
Program

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### **ACTION REQUESTED**

I request that you authorize the Federal Highway Administration (FHWA) to proceed with the obligation of certain allocated non-competitive programs to enable project delivery and minimize disruption to programs for which the U.S. Department of Transportation (DOT) has little to no discretion with how the funding is distributed.

### **SUMMARY**

In response to the Office of the Secretary's request to review documents associated with competitive grant programs, FHWA advised division offices to hold on obligation of all non-formula programs. FHWA grants are generally split between formula and allocated programs; however, there is a further distinction within allocated programs between non-competitive programs and competitive grant programs. This approach of holding on obligations of all allocated funding is increasingly disruptive for Federal-aid recipients of allocated funding that do not receive their funding through a competitive process. These programs benefit a broad range of recipients, including Federal Land Management Agencies (FLMA), States, Tribes, Puerto Rico, and communities reliant on ferry transportation.

FHWA intends to proceed with the obligation of certain allocated non-competitive programs funded through the Federal-aid highway program and the Highway Infrastructure Program.

## BACKGROUND

The funding that falls within the allocated non-competitive category is distributed to recipients in several different ways depending on the program, including via amounts specified in law to certain recipients and distribution based on a statutory formula. Note that the programs with a statutory formula are not considered apportioned programs because the funding is not distributed to States or is otherwise treated as allocated by law.

Please see the attached Summary of Allocated Non-Competitive Programs for more information on the purpose and funding methodology of the various allocated non-competitive funding programs that are the subject of this memo.

## DISCUSSION

The following summarizes potential impacts by program if FHWA does not proceed with obligations:

The Federal Lands Transportation Program provides critical funds for roads—owned and operated by FLMAAs cited in section 203 of title 23 United States Code (U.S.C.)—within the Federal estate including but not limited to national parks, forest, and wildlife refuges. The FLMAAs manage over 275,000 miles of public roads and 14,000 bridges. This program funds these critical assets. Visitation to these lands relies heavily on the rural transportation systems that support economic growth for nearby rural, gateway communities and often serve as the single access opportunity to resources on Federal lands including but not limited to oil, gas, and timber extraction.

The Federal Lands Access Program funds State and locally owned roads that provide the needed access to/through our national treasures, e.g., national parks and forests. Typically, these two-lane roads are a lower classification of Federal-aid highways and do not benefit from the larger Federal-aid apportioned programs. However, they are critical routes to the Federal estate in rural America and provide the seamless transportation experience for the traveling public. The program allocates funding to projects that are selected by a statutorily mandated programming committee that includes State and local representatives.

The Tribal Transportation Program (TTP) provides funding to the 574 federally-recognized Tribes to assist in construction of bridges, roads, and all other transportation facilities providing access to and through Tribal lands throughout the country. As part of the TTP, funds are provided for a Tribal Bridge Program and a Tribal High Priority Projects Program. Under the Tribal High Priority Projects Program, funds are made available pursuant to a non-competitive ranking process prescribed by law. The governing statute for the program—section 202 of title 23 U.S.C.—includes formula Tribal shares and planning and bridge funding. Under the statute, Tribes decide which eligible projects are to be funded. Tribes do not typically have funding reserves to be able to deliver these critical functions. Delays in the obligation of funding for these vital transportation programs in Indian country result in Tribes lacking the ability to maintain their transportation programs, including inability to build projects that are programmed for delivery and inability to pay transportation staff employed by the Tribes.

The Puerto Rico Highway Program (PRHP) is an allocated program that provides funding to the territory of Puerto Rico to assist in the construction and improvements to bridges, roads, and the necessary inter-island connectors. For funds allocated under this program, Puerto Rico selects which eligible projects are to be funded. Puerto Rico is included in the definition of "State" for most purposes under title 23 U.S.C. but is not eligible to receive funds apportioned among States for the Federal-aid highway program. [23 U.S.C. 165(b)(3)]. Delays in the obligation of PRHP funds will represent substantial impacts to the economic vitality, safety, and well-being of the American people, their families, and communities that reside in the island. As the largest designated Opportunity Zone in the United States, prioritizing the obligation of the PRHP funds is in alignment with DOT policy, per the Secretary Order titled "Ensuring Reliance Upon Sound Economic Analysis in Department of Transportation Policies, Programs, And Activities."

The Ferry Boat Program funds are allocated by formula, through the State transportation agencies, for designing and constructing ferry boats and for designing, acquiring right-of-way, constructing ferry terminal facilities, including ferry maintenance facilities, and other related activities. States and relevant public authorities decide which projects are funded with the funds allocated to each eligible ferry system. If obligations are delayed, there could be a range of significant impacts on affected communities, especially those dependent on ferry boats for daily life and economic activities, including economic disruption, transportation, and accessibility issues, particularly accessibility of transportation to families with young children, increased social isolation, and eroded public trust and confidence.

## RECOMMENDATION

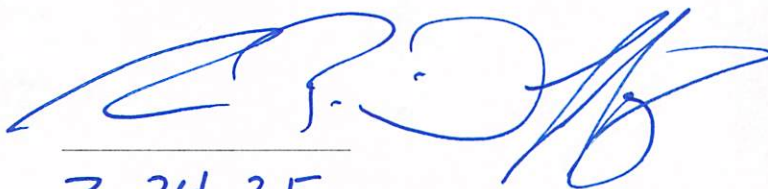
I recommend that you authorize FHWA to proceed with the obligation of these allocated non-competitive programs to enable project delivery and minimize disruption to programs for which DOT has little to no discretion with how the funding is distributed.

The Secretary

APPROVED:

DATE:

COMMENTS:

  
3-24-25

Attachment:

- Summary of Allocated Non-Competitive Programs

### Summary of Allocated Non-Competitive Programs

<b>Allocated Program</b>	<b>Purpose</b>	<b>Distribution Method</b>	<b>FY 2025 Authorized Amount (\$M)</b>
Federal Lands Transportation Program	Established in 2013, funds projects that improve multimodal transportation on roads, bridges, trails, transit systems, and other transportation facilities within the Federal estate on infrastructure primarily owned (or maintained) by the Federal Government.	Specified amounts to FLMA's	\$448
Federal Lands Access Program	Established in FY 2013, funds projects that improve multimodal transportation on roads, bridges, trails, transit systems, and other transportation facilities that access the Federal estate on infrastructure owned (or maintained) by States, local governments, or Tribes, with an emphasis on high-use Federal recreation sites or Federal economic generators.	Statutory formula to States with Federal Land (including Washington, DC, and Puerto Rico)	\$304
Tribal Transportation Program	Funds projects to provide safe and adequate multimodal transportation and public road access to and within Indian reservations, Tribal lands, and Alaska Native Village communities. The TTP contributes to the economic development, self-determination, and employment of federally recognized Tribes and Native Americans.	Statutory formula to Tribes	\$613
Puerto Rico Highway Program	Established in 1998, provides dedicated funding to assist Puerto Rico to carry out a highway program in the Commonwealth of Puerto Rico.	Specified amount to Puerto Rico Highways and Transportation Authority	\$184
Construction of Ferry Boats and Ferry Terminal Facilities	Provides funding to construct ferry boats and ferry terminal facilities. Funds are proportionally distributed to eligible ferry operations, based on the number of ferry passengers, the number of vehicles carried, and the total route miles serviced.	Statutory formula to ferry systems	\$184