

Criteria and Process for Obligation of Expired Highway Infrastructure Program Funds

This attachment describes the criteria and process for the obligation of expired Highway Infrastructure Program (HIP) funds.

1. Expired HIP funds may only be obligated if all the following criteria are met:
 - 1.1. The obligation is on an existing HIP-funded project (i.e., new project authorizations are not permitted);
 - 1.2. The existing HIP-funded project used the same fiscal year's HIP funding (i.e., if the expired funding is Fiscal Year (FY) 2018 HIP funding, then the project on which the funds are to be obligated must be a project that used FY 2018 HIP funding);
 - 1.3. The obligation is for a within-scope increase requiring an upward adjustment to the amount obligated on that project (new phases and additional contract work are not permitted); and
 - 1.4. The obligation is certified by the State and approved by the division office as meeting the above criteria.
2. Expired HIP funds cannot be used for new obligations, adjustments to pay claims, or increases under an escalation clause. For example, use of Z004 (FY 2018) expired funds:
 - 2.1. **Example 1: Permissible** – Legitimate upward adjustment - Increased material and labor quantities due to changes in condition on existing project with Z004, Z005, Z006, or Z007 funds.
 - 2.2. **Example 2: Not permissible** – Change in original scope – Original obligation was for project on Mile 1, and contract included option to add work on Mile 2.
 - 2.3. **Example 3: Not permissible** – Project was not previously obligated with FY 2018 HIP funding.
3. How to request obligation of expired HIP funds for a within scope upward adjustment:
 - 3.1. Overall process:
 - 3.1.1. Expired balances can be identified by running the W10A report in the Fiscal Management Information System (FMIS) for September 30 of the last fiscal year that the funds were available and identifying the unobligated balance at that time. These funds should be removed from FMIS in the following fiscal year. In addition, current unobligated balances for applicable funds on the most recent W10A report can be included.

- 3.1.2. States submit a request for an upward adjustment (increasing the obligated amount on the project) to the division office for concurrence utilizing a transfer request form (FHWA-1575C). Submission by the State constitutes a certification that the upward adjustment(s) requested is/are not associated with a disputed contract claim or an increase under an escalation clause (as excluded by 31 U.S.C. 1553(c)(3)).
 - 3.1.3. The division office will either reject the transfer request form and notify the State OR approve the transfer request form and submit to the FHWA Transfers mailbox (FHWA_transfers@dot.gov).
- 3.2. A completed obligation adjustment transfer form will include the following information:
- 3.2.1. Top portion of the transfer form:
 - Type of Transfer Request (Between Program – Fund to Fund)
 - Requesting Agency
 - Transfer Request Contact
 - Tracking Numbers (State Project number)
 - Tracking Numbers (Federal-aid Project number for upward adjustment)
 - 3.2.2. From portion of the transfer form:
 - Description of Fund - From (See Table)
 - Fiscal Year (See Table)
 - Program Code (See Table)
 - Amount (Amount of upward adjustment of HIP funds requested)
 - 3.2.3. To portion of the transfer form:
 - Description of Fund - To (See Table)
 - Program Code (See Table)
 - Amount (Amount of upward adjustment of HIP funds requested)
 - 3.2.4. Bottom portion of the transfer form:
 - Description/Reason/Justification for upward adjustment including specific FMIS project agreement number, and the following language "I hereby certify that this request for an upward adjustment is for costs incurred within the original scope and obligation and does not exceed the unobligated program code balance of the State's HIP funds available. The increase in costs is not related to a contract claim or escalation clause" (see the box above State Signature).
 - State Official's Signature
 - Division Administrator concurrence signature
- 3.3. A detailed explanation documenting the specifics of the request is required (stating in detail the need for the adjustment to the amount originally obligated, include the "who, what, when, why, where and how"). The State must submit documentation that demonstrates de-obligated funds are available to process the upward adjustment (per the

current FMIS W10A). The division office is responsible for performing the review of a State's supporting documentation and making the determination that the request for upward adjustment is not the result of a change in scope or increased costs due to exercising an escalation clause.

3.4. Expired funds may be expended for a period of five years following their lapse after which the funds cancel and must be returned to the U.S. Treasury. Funds that cancel cannot be used for any purpose, include reimbursement of previously made obligations.

3.5. Once the transfer form has been reviewed and approved, the funds will be moved from the existing HIP program code and placed in a HIP new program code set up to allow for valid upward adjustments using expired HIP funds.

4. After approval, States/division offices will be able to modify their existing project referencing the new program code and associated funding as shown in the table below.

HIP Code	Description	Fiscal ⁱ Year	Expired Date	Cancel Date	Upward Adjustment HIP Code
Z004	HIGHWAY INFRASTRUCTURE ANY	2018	9/30/2021	9/30/2026	Z928
Z005	HIGHWAY INFRA OVER 200K POP	2018	9/30/2021	9/30/2026	Z929
Z006	HIGHWAY INFRA 5K TO 200K POP	2018	9/30/2021	9/30/2026	Z930
Z007	HIGHWAY INFRA UNDER 5K POP	2018	9/30/2021	9/30/2026	Z931
Z150	HIGHWAY INFRA PUERTO RICO	2018	9/30/2021	9/30/2026	Z932
ZP15	PUERTO RICO HIGHWAY HIP 25% 23 U.S.C. 165(b)(2)(C)(ii)	2018	9/30/2021	9/30/2026	ZP62
ZP16	PUERTO RICO HIGHWAY HIP 25% 23 U.S.C. 165(b)(2)(C)(iii)	2018	9/30/2021	9/30/2026	ZP63
Z160	HIGHWAY INFRA TERRITORIES	2018	9/30/2021	9/30/2026	Z933
Z170	HIGHWAY INFRA BRIDGE	2018	9/30/2021	9/30/2026	Z934

ⁱ FY 2018 - Division L of the Consolidated Appropriations Act, 2018 (Public Law No. 115-141).