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# Criteria and Process for Upward Adjustment of Existing Obligations of Expired FY 2020 Highway Infrastructure Program Funds

## I. Purpose

This document describes the criteria and process for recording upward adjustments to existing obligations in expired Highway Infrastructure Program (HIP) accounts. Expired FY 2020 HIP funds lapsed on September 30, 2023, and are not available for new obligations. However, valid upward adjustments can be made using the criteria and processes contained in this guidance. A full list of expired FY 2020 codes is included for reference. All obligation adjustment requests for expired FY 2020 HIP funds must be received no later than September 13, 2024, or otherwise in accordance with year-end closeout guidance, in the FMIS Funds Control module. Further general information can be found in the [Funds Availability and Reobligating Expired Funds Guidance](#) under the section titled “Obligation of Appropriated Budget Authority-General Fund.”

## II. Expired FY 2020 HIP funds

1. **Obligation: Expired FY 2020 HIP funds may only be used to adjust obligations that were incurred before the budget authority expired on September 30, 2023, provided that:**
  - 1.1. The pre-existing obligation is on a 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 FY 2020 HIP funding, then the project on which the funds are to be obligated must be a project that used FY 2020 HIP funding);
  - 1.3. The adjustment is for a within-scope increase requiring an upward adjustment to the amount previously obligated on that project (new phases, additional contract work, adjustments to pay claims, and increases under an escalation clause 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. **The adjustment period of Expired FY 2020 HIP funds is from October 1, 2023, through September 30, 2028 (5 years), unless lengthened by legislation. Adjustments must be in accordance with the criteria outlined above. Below are examples of adjustment scenarios using Expired FY 2020 HIP funds in Z909:**

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- 2.1. **Example 1: Permissible** – Legitimate upward adjustment - Increased material and labor quantities due to changes in condition on existing project with Z909, Z910, Z911, or Z912 funds.
  - 2.2. **Example 2: Permissible** - Legitimate upward adjustment – Transportation charges greater than original estimate in previously recorded obligation.
  - 2.3. **Example 3: Not permissible** – Change in original scope – Original obligation was for project on Mile 1 and contract included an option to add work on Mile 2 that was not exercised or funded with FY 2020 HIP funds.
  - 2.4. **Example 4: Not permissible** – Project was not previously obligated with FY 2020 HIP funds.
3. **Processing Adjustments: Division offices review and approve or reject upward adjustments submitted by State DOTs using the Funds Control Module in the Fiscal Management Information System (FMIS). The procedures to process adjustments for Expired FY 2020 HIP funds is outlined below:**
    - 3.1. A detailed explanation in the FMIS transfer request documenting specifics of the transfer 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 division office must verify that the State includes in the FMIS transfer request documentation that demonstrates de-obligated funds are available to process the upward adjustment (per the current FMIS W10A report). 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.
    - 3.2. Overall process:
      - 3.2.1. Expired balances are identified by running the W10A report in FMIS for September 30, 2023, to identify the unobligated balances as of that date. These funds should be removed from FMIS during FY 2024. In addition, current unobligated balances for applicable funds on the most recent W10A report can be included.
      - 3.2.2. States submit a request for an upward adjustment (increasing the obligated amount on the project) to the division office for concurrence in the FMIS Funds Control module. The transaction type is “Within Program - Expired GF Upward Adjustment.” 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)).

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- 3.2.3. The division office will either reject the transfer request and notify the State or approve the transfer request to submit to the FHWA HCF Headquarters for processing in accordance with the division office's Fund Transfer Request Procedure for State Apportioned Transfers Initiated in FMIS.
  - 3.3. Once the transfer request has been reviewed and processed by HCF, the funds will be moved from the expired FY 2020 HIP program code and placed in a new program code set up to allow for valid upward adjustments using expired HIP funds.
  - 3.4. Fund obligation in the new upward adjustment HIP codes and expenditures for expired FY 2020 HIP funds must occur by August 31, 2028, to comply with appropriation cancellation requirements imposed by law. The State DOT must de-obligate all unexpended obligations by August 31, 2028, and must notify FHWA via official correspondence to ensure funding is permanently withdrawn.
  4. **After processing, States/division offices can modify their existing project referencing the new program code and associated funding as shown in the appendix below.**
  5. **FY 2020 HIP accounts will be in the expired phase for 5 years (until September 30, 2028). After five years any unexpended balances will be cancelled and not available for any purpose. No upward adjustments or obligations of any kind may be made after the cancellation date of September 30, 2028. Unexpended balances are returned to Treasury.**

### III. Expired FY 2020 HIP Codes

HIP Code	Description	Fiscal <sup>1</sup> Year	Expired Date	Cancel Date	Upward Adjustment HIP Code
Z909	HIGHWAY INFRASTRUCTURE ANY AREA	2020	9/30/2023	9/30/2028	Z935
Z910	HIGHWAY INFRASTRUCTURE OVER 200K POP	2020	9/30/2023	9/30/2028	Z936
Z911	HIGHWAY INFRASTRUCTURE AREA 5K TO 200K POP	2020	9/30/2023	9/30/2028	Z937
Z912	HIGHWAY INFRA UNDER 5K POP	2020	9/30/2023	9/30/2028	Z938
Z913	HIGHWAY INFRASTRUCTURE PROGRAM BRIDGE REPLACEMENT AND REHABILITATION	2020	9/30/2023	9/30/2028	Z939
ZP22	PUERTO RICO HIGHWAY PROGRAM FUNDS	2020	9/30/2023	9/30/2028	ZP11
ZP23	PUERTO RICO HIGHWAY HIP 25% 23 U.S.C. 165(b)(2)(C)(ii)	2020	9/30/2023	9/30/2028	ZP12
ZP24	PUERTO RICO HIGHWAY HIP 25% 23 U.S.C. 165(b)(2)(C)(iii)	2020	9/30/2023	9/30/2028	ZP13
Z171	TERRITORIAL HIGHWAY PROGRAM FUNDS	2020	9/30/2023	9/30/2028	Z175

<sup>1</sup> FY 2020 – Title 1, Division H of the Department of Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2020 (Public Law No. 116-94)