

Highway Infrastructure Program - Fact Sheet

BACKGROUND

- Made up of three apportionments
 - FFY 2017 - 2018: <http://www.fhwa.dot.gov/legsregs/directives/notices/n4510826/>
 - FFY 2018 - 2019: www.fhwa.dot.gov/legsregs/directives/notices/n4510835/
 - FFY 2019 - 2020: <https://www.fhwa.dot.gov/legsregs/directives/notices/n4510842/>
- Total of \$276 million appropriated for distribution by population to California
- Suballocated by Population:
 - Urbanized areas > 200,000
 - Areas > 5,000 to 200,000
 - Areas 5,000 or less
- FHWA Highway Infrastructure Program (HIP) Guidance: www.fhwa.dot.gov/federalaid/projects.pdf#page=78

AVAILABILITY OF FUNDS

- The **2018 Apportioned HIP funds** must **obligate by September 30, 2021** and **expend by September 30, 2026**.
- The **2019 Apportioned HIP funds** must **obligate by September 30, 2022** and **expend by September 30, 2027**.
- The **2020 Apportioned HIP funds** must **obligate by September 30, 2023** and **expend by September 30, 2028**.
- Funds are not subject to Obligation Limitation; HIP obligations do not count against the Region's/State's balance of formula OA.
- Federal share according to 23 USC 120 is 88.53% for California, except when:
 - on the interstate (90%)
 - meets certain safety project conditions (100%)

ELIGIBILITY

- Eligible work defined by 23 USC 133(b): <https://www.law.cornell.edu/uscode/text/23/133>
- PROJECTS MUST BE ON THE FEDERAL-AID SYSTEM. No projects on roads classified as a local road or rural minor collector unless:
 - on a Federal-aid highway system on January 1, 1991
 - for bridges or tunnels (except new bridge or tunnel at new location)
 - highway and transit safety infrastructure improvements and programs, including railway-highway grade crossings
 - to provide necessary charging infrastructure along corridor-ready or corridor-pending alternative fuel corridors designated pursuant to 23 U.S.C. 151
 - approved by the Secretary
- Rural Minor Collectors (not eligible) are differentiated from Urban Minor Collectors (HIP eligible) using the latest U.S. Census Maps: www.census.gov/geographies/reference-maps/2010/geo/2010-census-urban-areas.html

REQUIREMENTS

- Programming and expenditure of funds must be consistent with 23 U.S.C. 134 and 135.
 - Projects must be consistent with the Long-Range Statewide Transportation Plan & Metropolitan Transportation Plans.
 - Projects must be identified in the FTIP/FSTIP prior to obligation.
- Disadvantaged Business Enterprises (DBE) rules apply.
- States must coordinate with relevant metropolitan planning organizations or rural planning organizations as required under section 133(d)(3) of title 23, U.S.C.
- Follow Local Assistance Procedures Manual to process HIP funding requests.

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Useful Definitions

Construction Source: 23 U.S.C. 101(a)(4)

The term “construction” means the supervising, inspecting, actual building, and incurrence of all costs incidental to the construction or reconstruction of a highway or any project eligible for assistance under this title, including bond costs and other costs relating to the issuance in accordance with section 122 of bonds or other debt financing instruments and costs incurred by the State in performing Federal-aid project related audits that directly benefit the Federal-aid highway program. Such terms include—

- (A) preliminary engineering, engineering, and design-related services directly relating to the construction of a highway project, including engineering, design, project development and management, construction project management and inspection, surveying, mapping (including the establishment of temporary and permanent geodetic control in accordance with specifications of the National Oceanic and Atmospheric Administration), and architectural-related services;
- (B) reconstruction, resurfacing, restoration, rehabilitation, and preservation;
- (C) acquisition of right-of-way;
- (D) relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing;
- (E) elimination of hazards of railway-highway grade crossings;
- (F) elimination of roadside hazards;
- (G) improvements that directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas; and
- (H) capital improvements that directly facilitate an effective vehicle weight enforcement program, such as scales (fixed and portable), scale pits, scale installation, and scale houses.

Highway Source: 23 U.S.C. 101(a)(11)

The term “highway” includes—

- (A) a road, street, and parkway;
- (B) a right-of-way, bridge, railroad-highway crossing, tunnel, drainage structure including public roads on dams, sign, guardrail, and protective structure, in connection with a highway; and
- (C) a portion of any interstate or international bridge or tunnel and the approaches thereto, the cost of which is assumed by a State transportation department, including such facilities as may be required by the United States Customs and Immigration Services in connection with the operation of an international bridge or tunnel.

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FAQs

Eligibility

1. What projects are eligible for HIP funds?

Funds may be used for restoration, repair, construction and other activities eligible under the Surface Transportation Program (STP) as defined within 23 U.S.C. 133(b).

- a. The STP provides flexible funding that may be used for projects on any Federal-aid highway (as defined in 23 U.S.C. 101(a)(5)). It should be noted that bridge projects on any public road are eligible for STP funding under the provisions of 23 U.S.C. 133(b)(1). In addition, carpool, pedestrian, bicycle, and safety projects, as listed in 23 U.S.C. 133(b)(3) & (4), may also be implemented with STP funding on roads of any functional classification, under the provisions of 23 U.S.C. 133(c).
- b. The special rule permitting obligation on minor collectors of up to 15 percent of a States Sub-allocated STP funds for areas of less than 5,000 population (Section 113(a) of the SAFETEA-LU Technical Corrections Act of 2008 (Public Law 110-224), amending Section 1108 (f) of TEA-21), is not applicable to HIP funds as these are not sub-allocated STP funds.

2. Can HIP funds be added to existing projects?

Yes, eligibility and programming requirements apply.

3. Are there any restrictions on the location of the project in which HIP funds are used?

Yes, the HIP funds must be used in the Metropolitan Planning Organization (MPO) designated by the Apportionment Distribution.

4. Can HIP be used for projects off the Fed-Aid system?

No, the 2020 guidelines say the funds cannot be used on local roads and rural minor collectors (off fed-aid system). "Pursuant to section 133(c) of title 23, U.S.C., projects may not be undertaken on a road functionally classified as a local road or a rural minor collector unless the road was on a Federal-aid highway system on January 1, 1991, except; (1) for a bridge or tunnel project (other than the construction of a new bridge or tunnel at a new location); (2) highway and transit safety infrastructure improvements and programs, including railway-highway grade crossings; (3) to provide necessary charging infrastructure along corridor-ready or corridor-pending alternative fuel corridors designated pursuant to 23 U.S.C. 151; and (4) as approved by the Secretary. Further, 23 U.S.C. 133(g)(1), allowing a portion of Surface Transportation Block Grant funds to be obligated on roads functionally classified as minor collectors, does not apply to these funds.

5. What type of safety projects are reimbursable at 100%?

Must be approved by FHWA

- a. Each year the amount of funds used for safety improvements that FHWA can allow to be 100% reimbursable is legally constrained.
- b. Typically, California uses its allotted amount of 100% reimbursement for safety work on the projects in the Highway Safety Improvement Program (HSIP). As a result, the 100% safety project reimbursement is not available for other federal funding programs such as HIP.
- c. If there was some left over capacity from the 100% safety reimbursement allotment and to be applied to a HIP project, the project would have to consist of only one or more of the below safety components.
 - i. Safety components allowed on 100% reimbursed safety projects are:
 - traffic control signalization,
 - maintaining minimum levels of retro-reflectivity of highway signs or pavement markings,
 - traffic circles (also known as "roundabouts"),
 - Safety Rest Areas*
 - pavement marking,
 - shoulder and centerline rumble strips and stripes,

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- commuter carpooling and vanpooling,
- rail-highway crossing closure, or
- installation of:
 - traffic signs,
 - traffic lights,
 - guardrails,
 - impact attenuators,
 - concrete barrier end-treatments,
 - breakaway utility poles, or
 - priority control systems for emergency or transit vehicles at signalized intersections
- Safety Rest Areas [“Safety Rest Area” is defined as an area where motor vehicle operators can park their vehicles and rest; where food, fuel, and lodging services are not available; and is located on a segment of highway that FHWA agrees has a shortage of public and private areas where motor vehicle operators may park their vehicles and rest

If project has a mix of eligible safety components and non-eligible safety components the lower reimbursement ratio must be used.

6. Are bicycle and pedestrian projects eligible for HIP funding?

Yes. According to 23 U.S.C. 133(b)(6), “Recreational trails projects eligible for funding under section 206, pedestrian and bicycle projects in accordance with section 217 (including modifications to comply with accessibility requirements under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)), and the safe routes to school program under section 1404 of SAFETEA–LU (23 U.S.C. 402 note).”

7. Are operational improvement projects eligible for HIP funds, such as traffic signal installation?

Yes, traffic signal installation is eligible for HIP funding. Eligible HIP work includes construction of highways, bridges, and tunnels. [23 USC 133(b)(1)(A)] Construction includes “improvements that directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas...” [23 USC 101(a)(4)(G)]

8. Are Toll Credits allowed to be used?

Yes, toll credits can be used for the non-federal share. However, the decision to use Toll Credits on a specific project resides with the programming entity (MPO/RTPAs, Bridge/Safety Program coordinators). With the relatively short time frame for which these funds are available, toll credits will help use them faster.

9. Do the Apportionments set aside include additional HIP funds for other purposes? If so, who may qualify for those funds?

Yes, some HIP funds are set aside for other special purposes including the Puerto Rico Highway Program, Nationally Significant Federal Lands and Tribal Projects, competitive grants for activities described in 23 U.S.C. 130(a), Regional Infrastructure Accelerator Demonstration Program, and for a National Road Network Pilot Program.

10. Are HIP funds only for the Construction phase of work?

No, HIP funds may also be used on PE, RW, and ENV phases of work, so long as the work leads directly to a constructed project.

11. Can HIP funds be obligated just for PE or RW phases of work without having any Construction funds obligated yet?

Projects that are not fully programmed in the FTIP, and cannot provide proof the project is fully funded for all future phases of work, require separate FHWA approval for HIP funds.

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12. Can HIP funds be used for a Planning Report or Planning Study?

No, HIP funds must be used to construct a project; hence HIP funds cannot be used for planning reports or planning studies for future projects.

Funding

1. How are HIP funds awarded to local agencies?

The HIP funding distribution among the states is determined by FHWA. Once California receives its apportionment distribution, Caltrans Programming further sub-allocates the funding by formula based on population. MPOs or RTPAs award the specific HIP projects, in accordance with 133(d)(3) of title 23, U.S.C. MPOs and RTPAs are responsible for programming the HIP projects within their jurisdictions into the FTIP/FSTIP prior to fund obligation.

2. What is the reimbursement Ratio for HIP?

The reimbursement ratio for HIP projects depends on the location and type of project:

- a. Most projects will have a reimbursement ratio of 88.53%; this is based on the percentage of nontaxable Indian lands, public domain lands, national forests, and national parks and monuments, within the State.
- b. For projects on the Interstate, the reimbursement ratio is 90%, unless the project adds non-high-occupancy-vehicle or auxiliary lanes. For projects that add single occupancy vehicle capacity, that portion of the project will revert to the 88.53% percent level.
- c. The Federal share for projects on the Interstate System is 90 percent.
- d. For certain types of safety projects, the reimbursement ratio is 100%.

3. What happens to HIP funds if they are not used by the deadline?

- a. Any amounts not obligated by the deadline shall lapse. Once the period for obligation has expired, funds will not be permitted to be re-obligated.
- b. A project has five years from the obligation deadline to expend HIP funds. For example, for funds that were apportioned in FFY 2018, the obligation deadline is September 30, 2021 and are available for expenses incurred until September 30, 2026.
- c. The 10 year rule also applies to projects using HIP funds. If a project does not acquire right of way or begin construction by the close of the tenth fiscal year following the fiscal year in which the project is authorized, the local agency will need to repay federal funds expended to FHWA. This includes repayment of HIP funds.

4. When the funds lapse, do they return to the State and Region?

Once the deadline to obligate funds has passed, the funds expire and are lost.

5. After funds are obligated, is there a certain date the project must issue its first invoice by?

Projects should reference their individual Program Supplemental Agreements (PSA) with Caltrans for the first date they must invoice by.

6. How often do projects need to invoice?

All projects using federal funds must invoice, at a minimum, every six months or they will be marked "inactive." Projects that are deemed inactive risk becoming deobligated.

7. Will we have to end up segregating the costs on projects for reporting purposes?

Yes, costs will need to be segregated on engineer's estimates for dissimilar fund eligibilities as applicable. No special reporting requirements have identified. Separate fund line entries for the HIP funds will be required on the E-76s, Finance Letters, invoices, etc., to allow tracking of the funds usage.

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General

1. What is the purpose of the HIP?

On March 23, 2018 the Consolidated Appropriations Act of 2018 was passed and signed into law. This omnibus 2018 FFY spending bill to fund the US federal government included the Department of Transportation Appropriations Act for that same FFY (DOT Appropriations Act, 2018, title I of division L, Pub. L. 115-141). The following year, the Department of Transportation Appropriations Act for the 2019 FFY was passed (DOT Appropriations Act, 2018, title I of division G, Public Law (Pub. L.) 116-6). These two appropriation Acts set aside funds for the Highway Infrastructure Program (HIP).

The provides federal funds to construct highways, bridges, and tunnels. The 2019 HIP fund apportionment may also be used for the elimination of hazards and installation of protective devices at railway-highway crossings. The 2020 HIP fund apportionment may also be used for charging infrastructure along corridor-ready or corridor-pending alternative fuel corridors.

2. Will the HIP be continued into 2021 and beyond?

The HIP has been approved, so far, in single year increments for three FFYs (e.g. 2018, 2019, and 2020). As of May 2020, it is not known if the HIP will be continued with additional funding via future legislation.