

AGENDA
Region 3
Paw Paw - Lawton Small Urban Task Force
April 21 2021, 10:00 a.m.

- I. Call to Order
- II. Introductions
- III. Public Comment on Non-Agenda Items
- IV. Review of current voting members of the Paw Paw - Lawton Small Urban Area Task Force

Eligible agencies must serve a population of 5,000 to 50,000 including:

- County Road Commission
 - Cities/Villages
 - Transit Agencies
- V. Highway Infrastructure Program (HIP/COVID) Funding
 - VI. Discussion/action on proposed and prioritized projects for FY 2021-2024
 - VII. Public comment
 - VIII. Other Business
 - IX. Adjourn

* Information available at www.smpcregion3.org/transportation

Meeting Minutes
Paw Paw/Lawton Small Urban Area Meeting
January 16, 2019

Call to Order

Meeting was called to order 10:02 a.m. at the Van Buren County Road Commission

Introductions

The following individuals were in attendance:

Tony Dacoba, Van Buren Public Transit

Lawrence Hummel, Van Buren County Road Commission

Sarah Moyer-Cale, Village of Paw Paw

Todd Hackenberg, Village of Lawton

Anna Horner, Wightman for Village of Lawton

Steve Stepek, Kalamazoo Area Transportation Study

Fred Nagler, Kalamazoo Area Transportation Study for Southcentral Michigan Planning Commission

Public Comments on Non-Agenda Items

No public comments were offered.

Review of Voting Members

Voting members were identified with the Road Commission, Transit and Villages entitled to a single vote each.

Discussion/Action on Projects for FY 2021 - 2023

Members presented projects for FY 2021 -2023, which were prioritized after discussion.

MOTION by Hummel, SUPPORT by Hackenberg, to adopt the following project prioritization. Motion approved unanimously.

Fiscal Year 2021

Rank	Road Name	Limits	Agency	Work Type	STP Cost
1	E. Michigan	Gremps to LaGrave	Paw Paw	Reconstruct	\$375,000
2	CR 652	Red Arrow to 44 th	VBCRC	Mill & Resurface	\$375,000
3a	White Oak	M-40 to W Village Limit	Lawton	Mill & Resurface	\$292,640
3b	Vehicle Purchase		VBPT	Vehicle Replacement	\$82,360
4	CR 657	64 th Ave to CR 364	VBCRC	Mill & Resurface	\$375,000
5	CR 653	M-40 to I-94	VBCRC	Mill & Resurface	\$375,000
6	CR 374	39 th to Paw Paw Village Limit	VBCRC	Mill & Resurface	\$375,000
7	CR 665	Paw Paw Village Limit to Fisk Lake Road	VBCRC	Mill & Resurface	\$375,000

Fiscal Year 2022

<u>Rank</u>	<u>Road Name</u>	<u>Limits</u>	<u>Agency</u>	<u>Work Type</u>	<u>STP Cost</u>
1	E. Michigan	Gremps to LaGrave	Paw Paw	Reconstruct	\$375,000
2	CR 652	Red Arrow to 44 th	VBCRC	Mill & Resurface	\$375,000
3a	White Oak	M-40 to W Village Limit	Lawton	Mill & Resurface	\$292,640
3b	Vehicle Purchase		VBPT	Vehicle Replacement	\$82,360
4	CR 657	64 th Ave to CR 364	VBCRC	Mill & Resurface	\$375,000
5	CR 653	M-40 to I-94	VBCRC	Mill & Resurface	\$375,000
6	CR 374	39 th to Paw Paw Village Limit	VBCRC	Mill & Resurface	\$375,000
7	CR 665	Paw Paw Village Limit to Fisk Lake Road	VBCRC	Mill & Resurface	\$375,000

Fiscal Year 2023

<u>Rank</u>	<u>Road Name</u>	<u>Limits</u>	<u>Agency</u>	<u>Work Type</u>	<u>STP Cost</u>
1	CR 652	Red Arrow to 44 th	VBCRC	Mill & Resurface	\$375,000
2a	White Oak	M-40 to W Village Limit	Lawton	Mill & Resurface	\$292,640
2b	Vehicle Purchase		VBPT	Vehicle Replacement	\$82,360
3	CR 657	64 th Ave to CR 364	VBCRC	Mill & Resurface	\$375,000
4	CR 653	M-40 to I-94	VBCRC	Mill & Resurface	\$375,000
5	CR 374	39 th to Paw Paw Village Limit	VBCRC	Mill & Resurface	\$375,000
6	CR 665	Paw Paw Village Limit to Fisk Lake Road	VBCRC	Mill & Resurface	\$375,000

Public Comments

No public comments were offered

There being no further business, the meeting was adjourned at 10:30 a.m.

Minutes prepared:
January 16, 2019

Fiscal Year	Job#	Small Urban	Project Name	Limits	County	Length	Primary Work Type	Project Description	Fed Amount	State Amount	Local Amount	Total Amount	Responsible Agency
2021	207242	Albion	Division Dr	Clark Street to E County Line	Calhoun	1.071	Road Rehabilitation	Resurfacing	\$375,000		\$0	\$375,000	Albion
2023	207247	Albion	N Clark St	North Street to City Limits	Calhoun	0.503	Road Rehabilitation	Restoration & Rehabilitation	\$375,000		\$0	\$375,000	Albion
2021	208218	Coldwater-Quincy	Marshall Rd	State to Jonesville	Branch	2.020	Road Rehabilitation	Resurface	\$375,000		\$200,000	\$575,000	Branch County
2023	208484	Coldwater-Quincy	W Liberty St	Main to Berry	Branch	0.318	Reconstruction	Reconstruct	\$375,000		\$0	\$375,000	Quincy
2020	209765	Hastings	E Woodlawn Av	N Michigan Ave to City Limits	Barry	0.776	Road Rehabilitation	Cold Milling and Resurface (C	\$240,450		\$0	\$240,450	Hastings
2021	209766	Hastings	N Michigan Ave	N Michigan-State Rd to Woodlawn	Barry	0.727	Road Rehabilitation	Cold mill and resurface (3" de	\$375,000		\$0	\$375,000	Hastings
2023	208261	Hastings	N Airport Rd	M-37 Hwy to W State Rd	Barry	1.388	Road Capital Preventive	Preventative Maintenance	\$200,000		\$50,000	\$250,000	Barry County
2021	208254	Marshall	E Mansion St	East Drive/North Drive E & Ma	Calhoun	0.366	Reconstruction	Resurface and Reconstruct	\$375,000		\$0	\$375,000	Marshall
2023	208255	Marshall	17.5 Mile Rd	Marshall City Limits to G Drive	Calhoun	0.368	Road Rehabilitation	Restoration and Rehabilitation	\$375,000		\$0	\$375,000	Calhoun County
2020	132931	Paw Paw-Lawton	CR 653	Red Arrow Highway South to I Van	Bure	0.458	Road Rehabilitation	Resurfacing	\$303,000		\$0	\$303,000	Van Buren County
2020	132932	Paw Paw-Lawton	Transit Capital area	wide	Van Bure	0.000	1110-Bus Rolling Stor	FY 2020 Small Urban Progra	\$72,000		\$20,000	\$92,000	Board of Commissioners
2022	207882	Paw Paw-Lawton	E Michigan Ave	Giempis Street to LaGrave	Van Bure	0.270	Reconstruction	Reconstruct	\$375,000		\$0	\$375,000	Paw Paw
2021	208392	Sturgis	Vinewood Ave	Vinewood Ave & Congress St	St. Joseph	0.513	Reconstruction	Reconstruct	\$375,000		\$0	\$375,000	St. Joseph County
2023	208393	Sturgis	Fawn River Rd	Fawn River from Balk to M-66	St. Joseph	3.026	Road Rehabilitation	Resurface	\$375,000		\$181,250	\$556,250	St. Joseph County
2021	208245	Three Rivers	Railroad Dr	W Michigan Avenue to W Put	St. Joseph	0.299	Reconstruction	Reconstruct	\$375,000		\$0	\$375,000	Three Rivers
2023	208246	Three Rivers	Wilbur Rd	Wilbur-US-131-Moorpark, Mc	St. Joseph	2.747	Road Rehabilitation	Resurface	\$375,000		\$93,750	\$468,750	St. Joseph County

FY 2021 Highway Infrastructure Program (HIP) Fund Announcement

Revised February 16, 2021 (with updated list of eligible activities)

Michigan received notices of two separate HIP funds. These funds are split 75% for trunkline and 25% for local agencies.

Highway Infrastructure Program (HIP)	\$ 49,851,686
<u>Highway Infrastructure Program (HIP) COVID Relief</u>	<u>\$ 261,308,725</u>
Total	\$ 311,160,411

Highway Infrastructure Program (HIP)

Total \$ 49,851,686

Federal notice: <https://www.fhwa.dot.gov/legsregs/directives/notices/n4510852/>

Table 1: FY 2021 Highway Infrastructure Program (HIP) Funding Allocations for Trunkline and Local Programs

FY 2021 HIP Program Funds	FHWA Program Codes	MDOT Fin Sys	Local Allocation	Trunkline Allocation	Total Allocation
HIP Any Area	Z918	HIP		\$ 7,663,446	\$ 7,663,446
HIP TMA	Z919	HIPU	\$ 5,263,605		\$ 5,263,605
HIP Small Urban/ Small MPO	Z920	HIPS	\$ 1,589,435		\$ 1,589,435
HIP Rural	Z921	HIPL	\$ 2,513,395		\$ 2,513,395
HIP Bridge	Z922	HIPB	\$ 3,096,487	\$ 29,725,318	\$ 32,821,805
Total			\$ 12,462,922	\$ 37,388,764	\$ 49,851,686
			25.00%	75.00%	

Rural Program funds totaling \$2,513,395 will be provided to the Local Bridge Program for rural bridges.

Local Bridge funds of \$3,096,487 are currently being held by MDOT to cover potential overages in the Bridge Bundle Pilot Program.

Table 2: FY 2021 HIP Funding Allocations for Local Program – Transportation Management Areas (TMAs)

FY 2021	
TMA's	Z919 (HIPU)
ANN ARBOR, Wash	\$ 290,008
DETROIT AREA	\$ 3,538,687
FLINT, Gen	\$ 337,577
GR. RAPIDS, Kent	\$ 540,111
LANS/E.LANS, Ing	\$ 297,125
SO. BEND, Ber	\$ 34,396
TOLEDO, Monr	\$ 26,972
Kalamazoo	\$ 198,729
Total	\$ 5,263,605

The funds listed to the left are being allocated directly to TMAs for local project selection through their metropolitan planning process. Projects should be programmed for eligible activities using the HIPU fin sys code in the HIP template for their TMA area.

Table 3: FY 2021 HIP Funding Allocations for Local Program – Small Metropolitan Planning Organizations (MPOs) and Small Urban Program

SMALL MPO PROGRAM:	Z920 (HIPS)
	Urbanized Area
	Population 2010-Census
	Share of
	<u>50,000 to 200,000</u>
BATTLE CREEK, Calh	\$ 74,321
BAY CITY, Bay	\$ 66,919
BENT. HARBOR, Ber	\$ 57,853
ELKHART, IN	\$ 853
HOLLAND, Alle/Otta	\$ 94,750
JACKSON, Jac	\$ 85,380
MICHIGAN CITY, IN	\$ 564
MIDLAND	\$ 55,949
MONROE,	\$ 48,579
MUSKEGON, Musk	\$ 152,903
PT. HURON, St.Cl	\$ 82,582
SAGINAW, Sag	\$ 119,707
SOUTH LYON-Howe	\$ 113,302
TOTAL Sm MPO	\$ 953,661
Small Urban	\$ 635,774
Total	\$ 1,589,435

Small MPO Program funds are being allocated to MPOs for local project selection through their metropolitan planning process. Projects should be programmed for eligible activities using the HIPS fin sys code in the HIP template for their MPO area.

Small Urban Program funds will be added to the Small Urban Program for urbanized areas with populations between 50,000 and 5,000.

FY 2021 HIP General Information

- Federal share is up to 81.85% with a 18.15% match requirement.
- These funds come with their own obligation authority and are not subject to any limitations on obligation.
- Projects must be obligated by September 30, 2024. MDOT recommends obligation as soon as possible.
- Eligible activities:
 1. Apportioned based on urbanized area for any of the following:
 - a. Surface Transportation Block Grant (STBG) program activities eligible under 23 USC 133 (b) see Appendix A (page 6) for the full list of items.
 - b. To provide necessary charging infrastructure along corridor-ready or corridor-pending alternative fuel corridors designated pursuant to 23 USC 151.
 2. Set aside of funding for bridge rehabilitation and reconstruction.
- Projects must be programmed in S/TIP.
- Disadvantaged Business Enterprises (DBE) Program Section 1101 of FAST Act applies to this funding.

Highway Infrastructure Program (HIP) COVID Relief

Total \$ 261,308,725

<https://www.fhwa.dot.gov/legregs/directives/notices/n4510851/>

Table 4: FY 2021 HIP COVID Relief Funding Allocations for Trunkline and Local Programs

FY 2021 HIP COVID Relief Program Funds	FHWA Program Codes	MDOT Fin Sys	Local Allocation	Trunkline Allocation	Total Allocation
HIP COVID Relief Any Area	Z970/ Z971	HIP	\$ 29,333,963	\$ 195,981,544	\$ 225,315,507
HIP COVID Relief TMA Areas	Z972/ Z973	HIPU	\$ 35,993,218	\$ -	\$ 35,993,218
Total			\$ 65,327,181	\$ 195,981,544	\$ 261,308,725
			25.00%	75.00%	

Table 5: FY 2021 HIP COVID Relief Funding Allocations for Local Program – Transportation Management Areas (TMAs)

FY 2021 HIP COVID Relief	
TMA's	Z972 (HIPU)
ANN ARBOR, Wash	\$ 1,983,113
DETROIT AREA	\$ 24,198,005
FLINT, Gen	\$ 2,308,398
GR. RAPIDS, Kent	\$ 3,693,347
LANS/E.LANS, Ing	\$ 2,031,780
SO. BEND, Ber	\$ 235,202
TOLEDO, Monr	\$ 184,436
Kalamazoo	\$ 1,358,937
Total	\$ 35,993,218

The funds listed to the left are being allocated directly to TMAs for local project selection through their metropolitan planning process. Projects should be programmed for eligible activities using the HIPU fin sys code in the HIP template for their TMA area. If the TMA chooses to use the funds for activities listed in eligible activities #2 (page 6), then the MPO needs to contact their MDOT MPO Program Manager on or before June 1, 2021 to discuss how to program the funds.

Table 6: FY 2021 HIP COVID Relief Funding Allocations for Local Program – Small Metropolitan Planning Organizations (MPOs) and Small Urban Program

SMALL MPO PROGRAM:	Z970 (HIP)
FY 2021 HIP COVID Relief	Urbanized Area
	Population 2010-Census
	Share of
	<u>50,000 to 200,000</u>
BATTLE CREEK, Calh	\$ 531,329
BAY CITY, Bay	\$ 478,409
BENT. HARBOR, Ber	\$ 413,593
ELKHART, IN	\$ 6,100
HOLLAND, Alle/Otta	\$ 677,377
JACKSON, Jac	\$ 610,385
MICHIGAN CITY, IN	\$ 4,033
MIDLAND	\$ 399,983
MONROE,	\$ 347,293
MUSKEGON, Musk	\$ 1,093,118
PT. HURON, St.Cl	\$ 590,384
SAGINAW, Sag	\$ 855,795
SOUTH LYON-Howe	\$ 810,004
TOTAL Sm MPO	\$ 6,817,802
Small Urban	\$ 4,547,433
Total	\$ 11,365,235

Small MPO Program funds listed to the left are being allocated directly to MPOs for local project selection through their metropolitan planning process. Projects should be programmed for eligible activities using the HIP fin sys code in the HIP template for their MPO area. If the MPO chooses to use the funds for activities listed in eligible activities #2 (page 6), then the MPO needs to contact their MDOT MPO Program Manager on or before June 1, 2021 to discuss how to program the funds.

Small Urban Program funds will be added to the Small Urban Program for urbanized areas with populations between 50,000 and 5,000.

Table 7: FY 2021 HIP COVID Relief Funding Allocations for Local Program – Rural Task Force (RTF)

FY 2021 HIP COVID Relief					2/11/2021		
RURAL TASK FORCE							
Z970 (HIP)							
RTF 1	Livingston	\$	298,635	RTF 9	Alcona	\$	164,461
	Monroe	\$	285,508		Alpena	\$	155,296
	St.Clair	\$	357,112		Cheboygan	\$	232,754
	Washtenaw	\$	308,033		Crawford	\$	148,745
	RTF 1 Total	\$	1,249,288		Montmorency	\$	141,737
	Hillsdale	\$	251,371		Oscoda	\$	147,945
	Jackson	\$	357,866		Otsego	\$	161,070
	Lenawee	\$	340,593		Presque Isle	\$	170,068
RTF 2	RTF 2 Total	\$	949,830		RTF 9 Total	\$	1,322,076
	Barry	\$	271,772	RTF 10A	Antrim	\$	189,791
	Branch	\$	212,839		Charlevoix	\$	155,655
	Calhoun	\$	281,471		Emmet	\$	184,124
RTF 3	Kalamazoo	\$	238,691		Kalkaska	\$	173,063
	St.Joseph	\$	225,153	RTF 10A	RTF 10A	\$	702,633
	RTF 3 Total	\$	1,229,926	RTF 10B	Manistee	\$	184,649
	Berrien	\$	282,220		Missaukee	\$	174,681
	Cass	\$	231,246		Wexford	\$	200,281
	Van Buren	\$	314,083	RTF 10B Total	RTF 10B Total	\$	559,611
RTF 4	RTF 4 Total	\$	827,549	RTF 10C	Benzie	\$	135,265
	Lapeer	\$	359,121		Grand Traverse	\$	228,402
	Shiawassee	\$	251,542		Leelanau	\$	138,635
RTF 5	RTF 5 Total	\$	610,663	RTF 10C Total	RTF 10C Total	\$	502,302
	Clinton	\$	253,825	RTF 11	Chippewa	\$	331,043
	Eaton	\$	250,030		Luce	\$	142,910
	Ingham	\$	228,963		Mackinac	\$	191,980
RTF 6	RTF 6 Total	\$	732,818	RTF 11 Total	RTF 11 Total	\$	665,933
	Huron	\$	307,967	RTF 12A	Alger	\$	161,223
	Sanilac	\$	361,437		Marquette	\$	377,838
	Tuscola	\$	350,546		Schoolcraft	\$	181,244
RTF 7A	RTF 7A Total	\$	1,019,950	RTF 12A Total	RTF 12A Total	\$	720,305
	Bay	\$	203,182	RTF 12B	Delta	\$	243,005
	Gratiot	\$	228,056		Dickinson	\$	147,153
	Saginaw	\$	372,056		Menominee	\$	251,188
RTF 7B	RTF 7B Total	\$	803,294	RTF 12B Total	RTF 12B Total	\$	641,346
	Clare	\$	203,651	RTF 13A	Baraga	\$	166,047
	Gladwin	\$	191,035		Houghton	\$	210,635
	Isabella	\$	243,079		Keweenaw	\$	81,499
RTF 7C	Midland	\$	212,909	RTF 13A Total	RTF 13A Total	\$	458,181
	RTF 7C Total	\$	850,674	RTF 13B	Gogebic	\$	203,096
	Arenac	\$	136,836		Iron	\$	206,318
	Iosco	\$	163,038		Ontonagon	\$	215,035
	Ogemaw	\$	191,537	RTF 13B Total	RTF 13B Total	\$	624,449
RTF 7D	Roscommon	\$	160,804	RTF 14	Lake	\$	177,181
	RTF 7D Total	\$	652,215		Mason	\$	178,813
	Mecosta	\$	228,611		Muskegon	\$	221,348
	Montcalm	\$	346,675		Newaygo	\$	321,842
	Osceola	\$	204,041		Oceana	\$	215,289
RTF 8A	RTF 8A Total	\$	779,327	RTF 14 Total	RTF 14 Total	\$	1,114,473
	Allegan	\$	427,174	Rural Total	Rural Total	\$	17,968,728
	Ionia	\$	252,055				
	Ottawa	\$	272,656				
RTF 8B	RTF 8B Total	\$	951,885				

The funds listed to the left are being allocated directly to RTFs for local project selection through their rural planning process. Projects should be programmed for eligible activities using the HIP fin sys code in the template HIP Rural. If the RTF chooses to use the funds for activities listed in eligible activities #2 (page 6), then the RTF needs to contact the MDOT RTF Coordinator on or before June 1, 2021 to discuss how to program the funds.

FY 2021 HIP COVID Relief General Information

- Must be obligated by September 30, 2024. MDOT recommends obligation as soon as possible.
- These funds come with their own obligation authority and are not subject to any limitations on obligation.
- Federal share is 100% payable. No match required.
- Eligible activities:
 1. Surface Transportation Block Grant (STBG) program activities eligible under 23 USC 133 (b) see Appendix A (page 6) for the full list of items.
 2. **Special eligibilities:** costs related to preventative maintenance, routine maintenance, operations, personnel, including salaries of employees (including those employees who have been placed on administrative leave) or contractors, debt service payments, availability payments, and coverage for other revenue losses. Contact your MDOT representative or coordinator if you intend to utilize the funds in this way.
- TMA funds must be used in the TMA area they are assigned to.
- Must be programmed in S/TIP.
- Disadvantaged Business Enterprises (DBE) Program Section 1101 of FAST Act applies to this funding.
- FHWA Program Codes are listed below. If a special eligibility is intended to be used, please contact MDOT to discuss how to program the project.
 1. Z970 (parent) HIP COVID Supplemental – any area (regular STBG activities)
 2. Z971 (child) HIP COVID Supplemental special eligibilities– any area
 3. Z972 (parent) HIP COVID Supplemental – TMA areas (regular STBG activities)
 4. Z973 (child) HIP COVID Supplemental special eligibilities– TMA areas

Appendix A: Eligible Activities under Surface Transportation Block Grant (STBG) program 23 USC 133

(b) source: <https://www.law.cornell.edu/uscode/text/23/133>

(1) Construction of—

(A) highways, bridges, tunnels, including designated routes of the Appalachian development highway system and local access roads under section 14501 of title 40;

(B) ferry boats and terminal facilities eligible for funding under section 129(c);

(C) transit capital projects eligible for assistance under chapter 53 of title 49;

(D) infrastructure-based intelligent transportation systems capital improvements, including the installation of vehicle-to-infrastructure communication equipment;

(E) truck parking facilities eligible for funding under section 1401 of MAP-21 (23 U.S.C. 137 note); and

(F) border infrastructure projects eligible for funding under section 1303 of SAFETEA-LU (23 U.S.C. 101 note).

- (2) [Operational improvements](#) and capital and [operating costs for traffic monitoring, management, and control](#) facilities and programs.
- (3) Environmental measures eligible under sections 119(g), 328, and 329 and transportation control measures listed in section 108(f)(1)(A) (other than clause (xvi) of that section) of the [Clean Air Act \(42 U.S.C. 7408\(f\)\(1\)\(A\)\)](#).
- (4) [Highway](#) and transit safety infrastructure improvements and programs, including railway-[highway](#) grade crossings.
- (5) Fringe and corridor parking facilities and programs in accordance with section 137 and [carpool projects](#) in accordance with section 146.
- (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) Planning, design, or [construction](#) of boulevards and other roadways largely in the right-of-way of former [Interstate System](#) routes or other divided [highways](#).
- (8) Development and implementation of a [State asset management](#) plan for the [National Highway System](#) and a performance-based management program for other [public roads](#).
- (9) Protection (including painting, scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) for bridges (including approaches to bridges and other elevated structures) and tunnels on [public roads](#), and inspection and evaluation of bridges and tunnels and other [highway](#) assets.
- (10) Surface transportation planning programs, [highway](#) and transit research and development and technology transfer programs, and workforce development, training, and education under [chapter 5 of this title](#).
- (11) Surface transportation infrastructure modifications to facilitate direct intermodal interchange, transfer, and access into and out of a port terminal.
- (12) [Projects](#) and strategies designed to support congestion pricing, including electronic toll collection and travel demand management strategies and programs.
- (13) At the request of a [State](#), and upon Secretarial approval of credit assistance under chapter 6, subsidy and administrative costs necessary to provide an [eligible entity](#) Federal credit assistance under chapter 6 with respect to a [project](#) eligible for assistance under this section.
- (14) The creation and operation by a [State](#) of an office to assist in the design, implementation, and oversight of public-private partnerships eligible to receive funding under this title and chapter 53 of title 49, and the payment of a stipend to unsuccessful private bidders to offset their proposal development costs, if necessary to encourage robust competition in public-private partnership procurements.
- (15) Any type of [project](#) eligible under this section as in effect on the day before the date of enactment of the FAST Act, including [projects](#) described under [section 101\(a\)\(29\)](#) as in effect on such day.



Memorandum

Subject: **INFORMATION:** Highway Infrastructure Programs - Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (HIP-CRRSAA) Implementation Guidance Date: February 24, 2021

From: Hari Kalla
Associate Administrator
Office of Infrastructure

HARI
KALLA

Digitally signed by
HARI KALLA
Date: 2021.02.24
09:55:20 -05'00'

Reply to Attn. of:
HISM-10

Brian R. Bezio
Chief Financial Officer

BRIAN R BEZIO

Digitally signed by BRIAN R
BEZIO
Date: 2021.02.24 09:50:09
-05'00'

To: Division Administrators
Directors of Field Services

The attached implementation guidance provides information to Federal-aid Division Offices, State transportation agencies, local governments, and grantee recipients, on Highway Infrastructure Program funding appropriated by title IV of the Coronavirus Response and Relief Supplemental Appropriations Act, 2021, division M, Public Law 116-260, as it relates to funding, Federal share, eligibility, and other requirements.

If there are questions, please contact David Bartz at (512) 417-5191 or by e-mail at David.Bartz@dot.gov, or contact Christopher Newman at (202) 366-4652 or Christopher.Newman@dot.gov, of the Office of Stewardship, Oversight and Management (HISM-10).

If there are questions concerning financial management and Fiscal Management Information System project agreements, please contact Tony DeSimone at (317) 226-5307 or by e-mail at Anthony.DeSimone@dot.gov, of the Office of Financial and Management Programs (HCFB-31).

Attachment

Highway Infrastructure Programs - Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (HIP-CRRSAA)

Implementation Guidance (February 24, 2021)

Title IV of the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSAA), division M, Public Law (Pub. L. No. 116-260), enacted on December 27, 2020, appropriated an additional \$10,000,000,000 for Highway Infrastructure Programs (HIP). Of such amount, \$9,840,057,332 shall be set aside and apportioned for activities eligible under section 133(b) of title 23, United States Code (U.S.C.) (Section III.A.). Such funds may also be used for Special Authority purposes (referred to in this document as “Special Authority”) (Section III.B.) or may be transferred to public tolling agencies or a ferry system that provides a public transportation benefit (Section III.C.), as described in this guidance. This guidance addresses only the funding provided to the States and refers to these funds as HIP-CRRSAA funds. The purpose of this guidance is to provide information on the HIP-CRRSAA as it relates to funding, Federal share, eligibility, and other requirements.

The remainder of the funding is set aside for other activities that are not the subject of this guidance. This includes \$114,568,862 set aside for activities eligible under the Tribal Transportation Program as described in 23 U.S.C. 202; \$35,845,307 set aside for activities eligible under the Puerto Rico Highway Program as described in 23 U.S.C. 165(b)(2)(C)(iii); and \$9,528,499 set aside for activities eligible under the Territorial Highway Program as described in 23 U.S.C. 165(c)(6).

I. General

- A. Program Purpose:** The purpose of the HIP-CRRSAA is to provide funding to address coronavirus disease 2019 (COVID-19) impacts related to Highway Infrastructure Programs. The non-traditional cost categories eligible under the HIP-CRRSAA appropriation and discussed below (Sections III.B. and III.C.) are statutorily eligible cost objectives authorized by Congress (see 2 CFR 200.1, defining cost objective).
- B. Appropriation of Funds:** The HIP heading in the CRRSAA appropriates \$10,000,000,000 from the General Fund of the Treasury for fiscal year (FY) 2021. Of this funding, \$9,840,057,332 is available for activities eligible under 23 U.S.C. 133(b), and other eligible uses described in that heading and discussed in detail below. As allowed under the HIP-CRRSAA, FHWA proportionally applied an administrative takedown to fund the oversight of activities carried out with these funds. After the \$9,840,057 administrative takedown, a total of \$9,830,217,275 was apportioned to the States on January 15, 2021 by Federal Highway Administration (FHWA) Notice N4510.851. These HIP-CRRSAA funds are in addition to any other funds, including contract authority, provided in FY 2021.
- C. Obligation Authority:** As a general fund appropriation, HIP-CRRSAA funding is not subject to any obligation limitation that applies to Federal-aid contract authority.

Specifically, the amounts made available shall not be subject to any limitations on obligations for Federal-aid highways or highway safety construction programs set forth in any Act.

- D. Period of Availability for Obligation and Expenditure:** HIP-CRRSAA funds remain available for obligation through September 30, 2024. Any such amounts not obligated on or before September 30, 2024, shall lapse. Once the period for obligation has expired, these funds will only remain available for adjusting and liquidating obligations as authorized in accordance with 31 U.S.C. 1553. Obligated HIP-CRRSAA balances are available for expenses properly charged to the account and incurred until September 30, 2029. After that date, any unexpended balances of obligated HIP-CRRSAA funds shall be cancelled in accordance with 31 U.S.C. 1552 and shall no longer be available for obligation or expenditure.
- E. Federal Share:** The Federal share payable with HIP-CRRSAA funds shall be, at the option of the State, up to 100%. HIP-CRRSAA funds may not be used as the non-Federal match for other Federal programs unless there is specific statutory authority (2 CFR 200.306(b)(5)). HIP-CRRSAA does not provide authority for use of HIP-CRRSAA funds as a non-Federal match for other Federal programs, including Federal-aid programs under title 23, United States Code. In general, financing proposals that result in only minimal amounts of HIP-CRRSAA funds in projects should be avoided unless they are based on sound project management decisions (23 CFR 630.106(g)).
- F. Applicability of Title 23 and Other Statutory Requirements:** Except as otherwise provided, the applicable statutory provisions contained in title 23, U.S.C. are applicable to projects and activities carried out with HIP-CRRSAA funds. Specific requirements that apply to all HIP-CRRSAA apportioned funds include Buy America (23 U.S.C. 313) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.).
- G. Fund Administration:** Except as otherwise provided, HIP-CRRSAA funds shall be administered as if apportioned under chapter 1 of title 23, U.S.C. The State, through its Department of Transportation (DOT) in accordance with 23 U.S.C. 302, is the direct recipient of HIP-CRRSAA funds apportioned pursuant to the HIP heading in the CRRSAA and is responsible for administration of these funds. If the State DOT acts as a pass-through entity of Federal assistance, the State DOT maintains the pass-through responsibilities specified in 2 CFR 200.332.
- H. Project Agreement:** Specific Improvement Type Codes are provided for use in the Fiscal Management Information System (FMIS) for the obligation of HIP-CRRSAA funds for Special Authority purposes. See Section III.B. of this guidance.
- I. Disadvantaged Business Enterprises:** Section 1101(b) of Public Law 114-94 (FAST Act), Disadvantaged Business Enterprises, applies to all HIP-CRRSAA apportioned funds.

- J. Deobligations of Other Title 23 Obligated Funds:** Project Agreements should not be modified to replace one Federal fund category with another unless specifically authorized by statute. (23 CFR 630.110(a)).
- K. Advance Construction:** HIP-CRRSAA funds are available for Advance Construction (AC) “conversion” (obligation and outlay) (23 U.S.C. 115(b)). For expenses to be recognized and eligible for AC “conversion,” the activity / project must have been authorized prior to incurrence of costs, as per 23 CFR 1.9(a) and general grant administration requirements. AC projects must be included in the Statewide Transportation Improvement Program (STIP) (23 U.S.C. 115(c)), except as otherwise provided.
- L. Real Property Rights:** If HIP-CRRSAA funds are used on a facility, the sale, lease, or other disposition of real property rights in the facility must be in accordance with 23 CFR Part 710. If HIP-CRRSAA funds are used to acquire real property, proceeds from the disposition of any interest in the property shall be used for purposes eligible under title 23, U.S.C.

II. Funding Distribution and Transfers

- A. Apportionment to States:** HIP-CRRSAA funds have been apportioned to the States in the same ratio as the distribution of obligation authority under section 120(a)(5) of the Department of Transportation Appropriations Act, 2021, tit. I, div. L., Pub. L. 116-260.
- B. Suballocation to Urbanized Areas with Population Over 200,000:** HIP-CRRSAA funds are suballocated to urbanized areas with a population over 200,000 as described in 23 U.S.C. 133(d)(1)(A)(i) in the ratio that the funds suballocated to such area in FY 2021 bears to the combined amount of funds apportioned to the State under 23 U.S.C. 104(b)(2) for FY 2020 and FY 2021.
- C. Set-Asides:** The CRRSAA makes no further set-aside or suballocations of these HIP-CRRSAA funds.
- D. Transfers:** For those projects more suitably administered by another Federal agency (including flex funding transfers to the Federal Transit Administration), transfers may be made in accordance with FHWA Order 4551.1, dated August 12, 2013, Fund Transfers to Other Agencies and Among Title 23 Programs (<https://www.fhwa.dot.gov/legisregs/directives/orders/45511.cfm>).
- E. HIP-CRRSAA Program Codes:** The FMIS Program Codes for these HIP-CRRSAA funds are:

Program Code	Program Description	CFDA Number
Z970 (Parent)	Highway Infrastructure - COVID Supplemental - 23 U.S.C. 133(b) activities in any area of the State	20.205
Z971 (Child)	Highway Infrastructure - COVID Special Authority - special eligibilities in any area of the State	20.205
Z972 (Parent)	Highway Infrastructure - COVID Supplemental - 23 U.S.C. 133(b) activities in urbanized areas with a population over 200,000	20.205
Z973 (Child)	Highway Infrastructure - COVID Special Authority - special eligibilities in urbanized areas with a population over 200,000	20.205

III. Eligible Activities and Requirements: HIP-CRRSAA funds may be obligated for activities eligible under 23 U.S.C. 133(b). At the discretion of the State, such funds may also be used for HIP-CRRSAA Special Authority purposes (Section III.B.) or may be transferred to public tolling agencies or a ferry system that provides a public transportation benefit (Section III.C.) as provided in HIP-CRRSAA.

Due to the differing application of certain title 23 provisions and planning requirements, it is not anticipated States will pursue obligation of funds under the HIP-CRRSAA Special Authority purposes on projects that could otherwise be funded under the HIP-CRRSAA 23 U.S.C. 133(b) authority or with Federal-aid apportioned funds. If a State is contemplating such an obligation, this should be discussed with the FHWA Division Office, HISM-10, and HCFB-31, so funds management and sound internal controls can be determined.

A. Activities Eligible Under 23 U.S.C. 133(b): This section applies to HIP-CRRSAA funds obligated under the authority for activities eligible under 23 U.S.C. 133(b).

- 1. FMIS Program Codes:** HIP-CRRSAA funds obligated for activities eligible under 23 U.S.C. 133(b) should be obligated with Program Code Z970 (activities in any area of the State) or Z972 (activities in urbanized areas with a population over 200,000).
- 2. Eligible Activities - 23 U.S.C. 133(b):** Additional information on 23 U.S.C. 133(b) eligible activities is located in Section D.1.b. of the Surface Transportation Block Grant Program (STBG) Implementation Guidance (Revised by the FAST Act) issued March 7, 2016 (<https://www.fhwa.dot.gov/specialfunding/stp/160307.cfm>).

- 3. Location of Projects:** HIP-CRRSAA funds obligated under the authority for activities eligible under 23 U.S.C. 133(b) are subject to 23 U.S.C. 133(c), which specifies that 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) for a project described in paragraphs (4) through (11) of 23 U.S.C. 133(b); (3) for a project described in 23 U.S.C. 101(a)(29), as in effect on the day before the date of enactment of the FAST Act (December 4, 2015); 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 HIP-CRRSAA funds obligated under the authority for activities eligible under 23 U.S.C. 133(b).
- 4. Applicability of Planning Requirements:** HIP-CRRSAA funds obligated under the authority for activities eligible under 23 U.S.C. 133(b) are subject to 23 U.S.C. 133(d)(5), which requires programming and expenditure of funds for projects to be consistent with sections 134 and 135 of title 23, U.S.C. Such HIP-CRRSAA-funded projects must be identified in the Statewide Transportation Improvement Program/Transportation Improvement Program (STIP/TIP) and be consistent with the Long-Range Statewide Transportation Plan and the Metropolitan Transportation Plan(s), as applicable.
- 5. Treatment of Projects:** As required under HIP-CRRSAA, projects for activities eligible under 23 U.S.C. 133(b) shall be subject to the requirements of 23 U.S.C. 133(i) (shall be treated as projects on a Federal-aid highway under chapter 1 of title 23, U.S.C.). Additional information on Treatment of Projects is provided in section J of the STBG Implementation Guidance (Revised by the FAST Act) issued March 7, 2016 (<https://www.fhwa.dot.gov/specialfunding/stp/160307.cfm>).
- 6. Increased Costs on Existing Federal-aid Projects:** For an existing project that has increased costs and exceeds the estimate in the current project authorization using other apportioned Federal-aid funding, where a State seeks authorization for a modification to obligate HIP-CRRSAA funds under the authority for activities eligible under 23 U.S.C. 133(b) for changes to the authorized project, HIP-CRRSAA funds may be obligated under such authority provided the modification results in additional costs that are above the already committed State/Federal funds for the project (23 CFR 630.110(a)). The added activity must otherwise meet the HIP-CRRSAA requirements, and Federal funds shall not be paid on account of any cost incurred prior to authorization (23 CFR 1.9(a)).
- 7. Cost Incurred Prior to Obligation:** HIP-CRRSAA funds obligated under the authority for activities eligible under 23 U.S.C. 133(b) shall not participate in costs incurred prior to the date of project agreement, except as provided by 23 CFR 1.9(b). (23 CFR 630.106(b)).
- 8. Documentation:** An obligation is a definite commitment of the Federal government that creates a legal liability for payment based upon a documented

and binding agreement between a Federal agency and an authorized grant recipient or other legal entity (including another Federal agency). This documentation must support that the obligation is for purposes authorized by law. Section 1501 of title 31, U.S.C., defines the documentary evidence requirements for Federal government obligations. Additional discussion, including record retention, is provided in the Project Funds Management Guide for State Grants Update memo issued May 23, 2018 (<https://www.fhwa.dot.gov/cfo/projfundsmgt.cfm>).

- B. Activities Eligible Under Special Authority:** This section applies to HIP-CRRSAA funds obligated under the Special Authority eligibility for costs related to preventive maintenance, routine maintenance, operations, personnel, including salaries of employees (including those employees who have been placed on administrative leave) or contractors, debt service payments, availability payments and coverage for other revenue losses.
- 1. FMIS Program Codes:** HIP-CRRSAA funds obligated under the HIP-CRRSAA Special Authority eligibility should be obligated with Program Code Z971 (special eligibilities in any area of the State) or Z973 (special eligibilities in urbanized areas with a population over 200,000).
 - 2. Eligible Costs - Special Authority:** The non-traditional cost categories noted above under the HIP-CRRSAA appropriation are statutorily eligible cost objectives authorized by Congress (see 2 CFR 200.1, defining cost objective). Except for States, Tribal governments, Puerto Rico, or territorial governments seeking to use HIP-CRRSAA funds for “coverage for other revenue losses,” or public tolling agencies or a ferry system that provides a public transportation benefit seeking reimbursement for “coverage for other revenue losses of a tolled facility or ferry system” (see Section III.C.), Congress did not require that a State or other non-Federal entity demonstrate (document) a revenue loss to seek reimbursement for the non-traditional cost objectives Congress made eligible under the appropriation. Consistent with 2 CFR 200.405, Special Authority costs statutorily eligible for reimbursement under the HIP-CRRSAA, other than “coverage for other revenue losses,” are eligible for reimbursement whether or not the State or other non-Federal entity experienced a revenue loss. Provided the State or other non-Federal eligible entity incurred a cost for these other identified “Special Authority” cost objective(s) and the State or other non-Federal entity demonstrates that a cost was incurred and is allocable to the identified HIP-CRRSAA cost objective(s), the cost is an allowable cost under the HIP-CRRSAA appropriation and 2 CFR 200.403 of the Cost Principles (pertaining to factors affecting allowability of costs under a Federal award). These factors include that costs must be necessary, reasonable, and allocable to the performance of the Federal award, except where otherwise authorized by statute (2 CFR 200.403(a)).
 - 3. Location of Projects:** The location requirements specified in 23 U.S.C. 133(c), do not apply to HIP-CRRSAA Special Authority projects.

- 4. Applicability of Planning Requirements:** HIP-CRRSAA Special Authority projects are not required to be included in a metropolitan transportation plan, a long-range statewide transportation plan, a transportation improvement program or a statewide transportation improvement program under sections 134 or 135 of title 23, U.S.C., or chapter 53 of title 49, U.S.C., as applicable. Consistent with this provision, programming and expenditure of HIP-CRRSAA funds for Special Authority purposes are not subject to planning requirements in 23 U.S.C. 134-135 or 23 CFR Part 450 that relate to the development of STIPs and TIPs. When a metropolitan planning organization (MPO) for a transportation management area (TMA) is responsible for selecting projects for HIP-CRRSAA funding in the TMA, the selection is done in consultation with the State and any affected public transportation operator (23 U.S.C. 134(k)(4)(A)). When the State selects National Highway System (NHS) projects for HIP-CRRSAA funding in a TMA, the selection is done in cooperation with the MPO for the TMA (23 U.S.C. 134(k)(4)(B)). When the State selects projects for HIP-CRRSAA funding in any other area of the State, the selection is done in cooperation with the MPO, nonmetropolitan local officials with responsibility for transportation, or Regional Transportation Planning Organization, as applicable (23 U.S.C. 134(j)(5) and 135(g)(6)).
- 5. Treatment of Projects:** The treatment of projects requirements, under 23 U.S.C. 133(i), do not apply to HIP-CRRSAA funds if the funds are used for an activity not eligible under 23 U.S.C. 133(b).
- 6. Construction:** Construction, as defined in 23 U.S.C. 101(a)(4), completed with HIP-CRRSAA funds is subject to: (1) the maintenance requirements in 23 U.S.C. 116(b); (2) the letting of contracts requirements in 23 U.S.C. 112; and (3) the prevailing rate of wage requirements in 23 U.S.C. 113. Preventive maintenance projects funded with HIP-CRRSAA funds are construction projects because: (a) preventive maintenance is made eligible for Federal assistance under 23 U.S.C. 116(e); (b) preventive maintenance is defined to include pavement preservation programs and activities in 23 U.S.C. 116(a); and (c) the title 23 definition of construction includes preservation (23 U.S.C. 101(a)(4)(B)). Additionally, operations projects funded with HIP-CRRSAA funds are construction projects if they meet the definition of construction in 23 U.S.C. 101(a)(4).
- 7. Non-Construction:** Non-construction activities carried out with HIP-CRRSAA funds are not subject to: (1) the maintenance requirements in 23 U.S.C. 116(b), (2) the letting of contracts requirements in 23 U.S.C. 112; or (3) the prevailing rate of wage requirements in 23 U.S.C. 113. Non-construction activities include “non-construction” operations (Section III.B.8.c.), routine maintenance, personnel, including salaries of employees (including those employees who have been placed on administrative leave) or contractors, debt service payments, availability payments and coverage for other revenue losses.
- 8. Eligible Activities:** Examples of the scopes of projects that may be funded under the HIP-CRRSAA Special Authority include, but are not limited to: preventive maintenance on non-Federal-aid highways, routine maintenance on any public

road, State DOT operations costs (not otherwise Federal-aid reimbursed, such as indirect costs), State DOT personnel costs (not otherwise Federal-aid reimbursed, such as indirect costs), debt service payments for highway surface transportation facilities (not otherwise Federal-aid reimbursed), and transit operating costs for local public agencies. Specific eligible activities are listed below.

- a. Preventive Maintenance:** Preventive Maintenance is discussed in 23 U.S.C. 116(e). Consistent with 23 U.S.C. 116(e), preventive maintenance activities may also be eligible under the HIP-CRRSAA eligibility for activities eligible under 23 U.S.C. 133(b) (discussed in Section III.A.), if the activities meet the requirements discussed in Section III.A. If obligating under the 133(b) authority, as discussed in Section III.A., then obligations should be made using the applicable 23 U.S.C. 133(b) eligibility program codes (Section III.A.1.). HIP-CRRSAA funds obligated for preventive maintenance shall not participate in costs incurred prior to the date of project agreement, except as provided by 23 CFR 1.9(b). (23 CFR 630.106(b)). *Improvement Type Codes: 60-Highway Infrastructure Preventive Maintenance, 47-Bridge Preservation, or 53-Tunnel Preventive Maintenance (as applicable).*
- b. Routine Maintenance:** Routine Maintenance is described in the February 25, 2016 memo, Guidance on Highway Preservation and Maintenance (<https://www.fhwa.dot.gov/preservation/memos/160225.cfm>). Routine maintenance is the responsibility of the State under 23 U.S.C. 116(b), is not included in the 23 U.S.C. 101(a)(4) definition of construction, and is, therefore, not subject to title 23 construction requirements. Routine maintenance is an eligible use of funds under the HIP-CRRSAA Special Authority. However, if the routine maintenance activity is performed by contract, States and subrecipients are required to follow 2 CFR 200.317 and 1201.317, respectively. Routine maintenance may also be performed by State or local forces through normal operations. HIP-CRRSAA Special Authority provides for Federal participation in routine maintenance costs incurred prior to the date of project agreement. *Improvement Type Code: 61-Routine Maintenance.*
- c. Operations:** The HIP-CRRSAA Special Authority provides for direct funding of operations costs. Operations costs may include, but are not limited to, labor costs, administrative costs, costs of utilities, and rent, for the highway surface transportation operations of State DOTs or local governments. Except where otherwise authorized by statute, costs must: 1) be consistent with policies and procedures that apply uniformly to both federally financed and other activities of the non-Federal entity, and 2) be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost (2 CFR 200.403). Therefore, it is essential that each item of cost incurred for the same purpose be treated consistently in like circumstances, either as a direct or an indirect cost, in order to avoid possible double-charging of Federal awards (2 CFR 200.412).

HIP-CRRSAA Special Authority provides for Federal participation in non-construction operations costs incurred prior to the date of project agreement. HIP-CRRSAA funds obligated for operation projects that meet the definition of construction in 23 U.S.C. 101(a)(4), shall not participate in costs incurred prior to the date of project agreement, except as provided by 23 CFR 1.9(b). (23 CFR 630.106(b)). *Improvement Type Code: 62-Operations. To facilitate proper tracking, personnel costs should be coded under the Personnel Improvement Type Code (Section III.B.8.d.).*

- d. **Personnel:** This item includes salaries of employees (including those employees who have been placed on administrative leave) or contractors. Also consult the direct / indirect discussion under Operations (Section III.B.8.c). HIP-CRRSAA Special Authority provides for Federal participation in personnel costs incurred prior to the date of project agreement. *Improvement Type Code: 27-Administration.*
- e. **Debt Service Payments:** Section 122 of title 23, U.S.C., makes bond-related costs eligible for Federal reimbursement on any Federal-aid project eligible under title 23, U.S.C. The definition of “construction” in 23 U.S.C. 101 also includes a reference to bond-related costs. The HIP-CRRSAA provides that debt service may be reimbursed notwithstanding any other provision of law. Thus, whether or not the projects financed complied with title 23 or are being reimbursed under 23 U.S.C. 122, such debt service is eligible for reimbursement for highway surface transportation projects. Use of HIP-CRRSAA funds for debt service payments for projects other than highway surface transportation projects would be inconsistent with the purpose of the appropriation, which provides funds for “Highway Infrastructure Programs.” See 31 U.S.C. 1301(a). Where a State bond issuance funds both highway surface transportation and non-highway surface transportation projects, HIP-CRRSAA funds may only participate in the debt service costs allocable to the highway surface transportation projects associated with the bond issuance. HIP-CRRSAA Special Authority provides for Federal participation in debt service payment costs incurred prior to the date of project agreement. *Improvement Type Code: 45-Debt Service.*
- f. **Availability Payments:** HIP-CRRSAA funds are available for availability payments under the HIP-CRRSAA Special Authority. For example, to the extent a State is in default on, or needs funds for availability payments related to highway surface transportation, such availability payments are eligible for reimbursement with HIP-CRRSAA funds. HIP-CRRSAA Special Authority provides for Federal participation in availability payment costs incurred prior to the date of project agreement. *Improvement Type Code: 44-Other.*
- g. **Coverage for Other Revenue Losses:** This eligibility is for costs/expenses related to highway surface transportation, beyond those specifically listed above, that cannot be met due to revenue losses. In order to use HIP-CRRSAA funds for “coverage for other revenue losses,” States, Tribal governments, Puerto Rico, or territorial governments need to demonstrate

(document) a revenue loss to seek reimbursement for the “coverage for other revenue losses” non-traditional cost objective (see similar discussion in Section III.C.2). HIP-CRRSAA Special Authority provides for Federal participation in coverage for other revenue loss costs incurred prior to the date of project agreement. Revenue losses do not include reduced collection of Federal taxes and fees, such as Federal motor fuel taxes, not directly available to the non-Federal entity as revenue. *Improvement Type Code: 44-Other.*

9. Routine Police Service and Other General Costs of Government: The cost of routine police service is not eligible for HIP-CRRSAA funding. Selected items of cost are discussed in 2 CFR 200.420 of the Cost Principles, and general costs of government are discussed in 2 CFR 200.444. Unallowable costs include costs of other general types of government services normally provided to the general public, such as fire and police, unless provided for as a direct cost under a program statute or regulation (2 CFR 200.444(a)(5)). Therefore, routine police services are not eligible activities with HIP-CRRSAA funds.

10. Documentation: An obligation is a definite commitment of the Federal government that creates a legal liability for payment based upon a documented and binding agreement between a Federal agency and an authorized grant recipient or other legal entity (including another Federal agency). This documentation must support that the obligation is for purposes authorized by law. Section 1501 of title 31, U.S.C., defines the documentary evidence requirements for Federal government obligations. As discussed in Section III.B.2., above, provided the State incurred a cost for the identified “Special Authority” cost objective(s) and the State demonstrates that a cost was incurred and is allocable to the identified HIP-CRRSAA cost objective(s), the cost is an allowable cost under the HIP-CRRSAA appropriation and 2 CFR 200.403. Documentation must be adequate to demonstrate that the costs incurred are eligible under the Special Authority eligibility. Additional discussion, including record retention, is provided in the Project Funds Management Guide for State Grants Update memo issued May 23, 2018 (<https://www.fhwa.dot.gov/cfo/projfundsmgt.cfm>).

C. Public Tolling Agencies and Ferry Systems that Provide a Public Transportation Benefit: A State may transfer HIP-CRRSAA funds to:

- State, multi-State, international, or local public tolling agencies that own or operate a tolled facility that is a public road, bridge, or tunnel; or
- a ferry system that provides a public transportation benefit.

Such public tolling agency or ferry system must have been in operation within their State in FY 2020.

Funds transferred in this manner may be used to cover costs related to operations, personnel, including salaries of employees (including those employees who have been placed on administrative leave) or contractors, debt service payments, availability payments, and coverage for other revenue losses of a tolled facility or ferry system.

- 1. FMIS Program Codes:** HIP-CRRSAA funds transferred to public tolling agencies or a ferry system that provides a public transportation benefit should be obligated with Program Code Z971 (special eligibilities in any area of the State) or Z973 (special eligibilities in urbanized areas with a population over 200,000).
- 2. Eligible Costs - Tolling Agencies and Ferry Systems:** The non-traditional cost categories noted above under the HIP-CRRSAA appropriation are statutorily eligible cost objectives authorized by Congress (see 2 CFR 200.1, defining cost objective). In order to use HIP-CRRSSAA funds for “coverage for other revenue losses of a tolled facility or ferry system,” a public tolling agency or a ferry system providing a public transportation benefit needs to demonstrate (document) a revenue loss to seek reimbursement for such non-traditional cost objective that Congress made eligible under the appropriation. However, Congress did not require that a public tolling agency or a ferry system providing a public transportation benefit demonstrate (document) a revenue loss to seek reimbursement for the other non-traditional cost objectives Congress made eligible under the appropriation. Consistent with 2 CFR 200.405, those other costs statutorily eligible for reimbursement under the HIP-CRRSAA are eligible for reimbursement whether or not the tolling agency or ferry system experienced a revenue loss. Therefore, provided the tolling agency or ferry system incurred a cost for the identified “Special Authority” cost objective(s), other than revenue losses for a tolled facility or ferry system, and the tolling agency or ferry system demonstrates that a cost was incurred and is allocable to the identified HIP-CRRSAA cost objective(s), the cost is an allowable cost under the HIP-CRRSAA appropriation and 2 CFR 200.403. Consistent with the HIP-CRRSAA provision, transfers of HIP-CRRSAA funding are limited to: (1) public tolling agencies, or (2) a ferry system that provides a public transportation benefit, for the eligible cost objectives as described in Section III.B.8., items: c. Operations, d. Personnel, e. Debt Service Payments, f. Availability Payments, and g. Coverage for Other Revenue Losses. The specified Improvement Type Codes provided in Section III.B.8. should be used in FMIS for the obligation of HIP-CRRSAA funds to be transferred to a tolling agency or ferry system.
- 3. Applicability of Certain Title 23 Requirements:** The applicability of certain title 23 requirements, is provided in Section III.B. items: 3. Location of Projects, 4. Applicability of Planning Requirements, 5. Treatment of Projects, 6. Construction, 7. Non-Construction, 9. Routine Police Service and Other General Costs of Government, and 10. Documentation. Tolling agencies and ferry systems not currently subject to title 23, U.S.C., requirements should discuss the impacts of accepting HIP-CRRSAA funds with their State and FHWA Division Office, HISM-10, HCFB-31, and HOTM-1.
- 4. Limitation on the Use of Revenues:** The limitations on the use of revenues in subsections (a)(3) and (c)(4) of 23 U.S.C. 129 shall not apply with respect to HIP-CRRSAA funds transferred for a tolled facility or ferry system, even if such tolled facility or ferry system is already subject to such provisions due to the use of prior Federal-aid highway funds. However, because the exception in the HIP-

CRRSAA heading is “for funds made available under this heading in this Act,” use of HIP-CRRSAA funds on a tolled facility or ferry system does not remove current limitations on the use of revenues under 23 U.S.C. 129(a)(3) and (c)(4) associated with prior use of Federal-aid highway funds.

- 5. Recommended Method to Carry Out Projects:** The recommended method to carry out projects with the public tolling agency or ferry system is through a subrecipient / subaward type grant agreement between the entity and the State.

Except for the statutes and regulations cited herein, the contents of this guidance do not have the force and effect of law and are not meant to bind the States or the public in any way. This guidance is intended only to provide information and clarity regarding existing requirements under the law or Federal agency policies.