



U.S. Department
of Transportation
**Federal Highway
Administration**

Office of the Administrator

1200 New Jersey Avenue, SE.
Washington, DC 20590

September 29, 2008

Ms. DeLania Hardy
Executive Director
Association of Metropolitan Planning
Organizations
1029 Vermont Ave NW, Ste 710
Washington, DC 20005

In Reply Refer To:
HCFB-1

Dear Ms. Hardy:

Thank you for your letter of August 5 to Deputy Administrator James D. Ray regarding the proposed rescissions of federal funds previously committed to Metropolitan Transportation Planning. I have been asked to respond.

Pursuant to the Energy Independence and Security Act of 2007, the rescissions apply to the Metropolitan Planning apportionments because the law requires the application of the rescissions to unobligated balances of funds apportioned to each State under Chapter 1 of Title 23, United States Code (with certain specified exceptions).

Federal Highway Administration Notice N4510.673 dated March 4, 2008, applies to Metropolitan Planning:

Pursuant to Title XI, Subtitle D, Section 1132(a) of the Energy Independence and Security Act of 2007, Pub. L. No. 110-140, the rescission shall be distributed within each State among programs which are apportioned under Chapter 1 of Title 23, U.S.C., and for which funds were apportioned in fiscal year (FY) 2008. The affected programs under Chapter 1 of Title 23, U.S.C., among which the rescission shall be distributed, are as follows: Interstate Maintenance, National Highway System, Bridge, Surface Transportation Program, Congestion Mitigation and Air Quality Improvement, Recreational Trails, Metropolitan Planning, Equity Bonus, and Transportation Enhancements (emphasis added).

Metropolitan Planning funds are apportioned under section 104(f)(2) of Title 23, U.S.C., which reads in part:

These funds shall be apportioned to the States in the ratio which the population in urbanized areas or parts thereof, in each State bears to the total population in such urbanized areas in all the States ... (emphasis added).

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The 1.25 percent takedown of funding from the core programs is deducted off the top before any applicable deductions/rescissions are applied. FHWA has consistently treated Metropolitan Planning funding as an apportioned formula program; therefore, it is not exempt from the rescissions in fiscal years 2008 and 2009.

We will proportionally distribute the rescissions within the States among affected programs. States will then be allowed to make adjustments to the proportional distribution among the programs; however, any adjustment will be restricted to 110 percent of the amount of the rescission proportionally distributed to a program.

FHWA will work with the States and Metropolitan Planning Organizations (MPOs) to review the MPOs' ongoing ability to fulfill the Metropolitan Planning requirements in 23 USC 134 and 23 CFR 450. These requirements must be met as a condition for receipt of Federal transportation program funds.

I hope this information is helpful to you. If we can provide further information or assistance, please let us know.

Sincerely,

A handwritten signature in cursive script that reads "Margo Sheridan".

Margo Sheridan
Acting Chief Financial Officer