



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

1200 New Jersey Ave. SE
Washington, DC 20590

August 4, 2009

In Reply Refer To:
HCFB-1

Ms. DeLania Hardy
Executive Director
Association of Metropolitan
Planning Organizations
Washington, DC 20005

Dear Ms. Hardy:

Thank you for your letter of July 7 to Executive Director Jeffrey F. Paniati regarding the FY 2009 rescission of Federal funds previously committed to Metropolitan Transportation Planning. I have been asked to respond.

The Federal Highway Administration (FHWA) has consistently treated Metropolitan Planning funding as an apportioned formula program, which is supported by section 104(f)(2) of Title 23, United States Code (U.S.C.), that 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).*"

Pursuant to Division I, Title I of the Omnibus Appropriations Act, 2009 (FY 2009 Omnibus), an amount of \$3,150,000,000 was rescinded from the unobligated balances of funds apportioned under Chapter 1 of Title 23, U.S.C. The rescission applied to Metropolitan Planning funding because it is an apportioned program and was not expressly exempted by the law.

The FY 2009 Omnibus further required that, "*the Secretary of Transportation shall allow each State to determine the amount of the required rescission to be drawn from the programs to which the rescission applies.*" Therefore, the guidance issued to implement the rescission in FHWA Notice N4510.707 provided the States with full flexibility in determining the amounts to be rescinded from each affected program, including Metropolitan Planning.

The 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 U.S.C. 134 and Part 450 of Title 23, Code of Federal Regulations (C.F.R.). 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,

Elissa K. Konove
Chief Financial Officer

