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Issued in Hawthorne, California, on July 25, 2000.

Herman C. Bliss,

Manager, Airports Division Western, Pacific Region.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA-1999-5382]

Implementation Guidance and Selection Criteria for Interstate Maintenance Discretionary Program Funds

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of final selection criteria for Fiscal Year (FY) 2001 and beyond.

SUMMARY: The FHWA adopts as final the selection criteria to be used for evaluating candidate projects for Interstate Maintenance Discretionary (IMD) Program funds for FY 2001 and beyond as published on Friday, April 23, 1999, at 64 FR 20048. These are the same general selection criteria that have been used by FHWA for several years to evaluate candidates for this discretionary program. The FHWA Division Offices in each State will use these selection criteria to solicit candidate projects from State transportation agencies for FY 2001 and beyond. Also, this notice responds to the public comments to this docket.

FOR FURTHER INFORMATION CONTACT: Cecilio Leonin, Office of Program Administration, (202) 366-4651; or Harold Aikens, Office of the Chief Counsel, (202) 366-0764; Federal Highway Administration, 400 Seventh Street SW., Washington DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded using a computer,

modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may reach the Office of the Federal Register's home page at <http://www.nara.gov/fedreg> and the Government Printing Office's database at <http://www.access.gpo.gov/nara>. Internet users may also access the written comments on the interim guidance [FHWA Docket No. FHWA-1999-5382] received by the U.S. DOT Dockets by using the universal resource locator (URL): <http://www.dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

The solicitation memorandum will be available each year of the program on the FHWA web site at: <http://www.fhwa.dot.gov/discretionary>.

Background

On April 23, 1999, at 64 FR 20048, the FHWA solicited comments on the selection criteria to be used by the FHWA for evaluating candidate projects for the IMD program for FY 2001 and beyond. These are the same general selection criteria that the FHWA has used for several years to evaluate candidates for this discretionary program.

Discussion of Comments

Comments in response to the April 23, 1999, notice were received from two State transportation departments.

The Florida Department of Transportation proposed that a donor State be given priority for the IMD Program funds over States that are receiving a more equitable balance between Federal funds collected and Federal funds apportioned. Section 118(c)(3) of title 23, U.S. Code, provides the statutory criteria for priority consideration of the following: (1) Any project the cost of which exceeds \$10 million, and (2) a project on any high volume route in an urban area, or high truck-volume route in a rural area. The more important non-regulatory criteria considered are the expeditious completion of large-scale viable projects and the transportation benefits and advantages that will be derived upon completion of the project, notably, easing of traffic congestion and enhancement of safety to the motoring public. It was never the intent of this program to be an equity adjustment for donor States.

The Illinois Department of Transportation (ILDOT) submitted the following two recommendations: (1) That preference be given to projects

with relatively high ratio of cost of project to a State's annual Interstate Maintenance (IM) apportionment since such IM projects impose a financial burden on the State's available Federal funds, and (2) that preference be given to projects that have relatively large volumes of truck traffic in urban areas, as well as in rural areas.

In regard to the ILDOT's first recommendation, the FHWA believes that the congressional intent is to give priority to viable large-scale projects to expedite their completion where available apportionments are insufficient to allow such projects to proceed on a timely basis. Section 118(c)(3) of title 23, U.S. Code, requires that priority consideration be given to projects which exceed \$10 million regardless of the amount of a State's annual apportionment of IM funds. Regardless of the size of this annual apportionment, 23 U.S.C. 118(c)(2)(A) requires that the State has obligated or demonstrates that it will obligate in the fiscal year all of its apportionments of IM funds to be eligible for IMD funds except an amount that, by itself, is not sufficient to pay the Federal share of the cost of a requested project.

In response to the ILDOT's second recommendation, the law explicitly provides that preference be given to projects as follows: (1) For urban areas, the total traffic volume should be considered; (2) while in rural areas, truck traffic volume should be taken into account. See 23 U.S.C. 118(c)(3). The FHWA believes that the congressional intent is to consider urban areas, which have heavier volumes of mixed vehicular traffic, separately from rural areas. Rural areas by their very nature have less traffic volume, but usually have a high percentage of truck traffic. Thus, when the FHWA considers candidate projects in rural areas, preference is given to projects that have relatively large volumes of truck traffic.

Based on the comments received, the FHWA will make no changes and will continue to use the same basic selection criteria for FY 2001 and beyond for the IM discretionary program. A selection criterion may be added for any individual year that reflects a special emphasis area but, for the most part, the selection criteria will remain unchanged. Accordingly, the FHWA hereby adopts as final the selection criteria to be used for evaluating candidate projects for IMD program funds for FY 2001 and beyond as published at 64 FR 20048 on Friday, April 23, 1999.

Authority: 23 U.S.C. 118 and 315; and 49 CFR 1.48.

Issued on: August 10, 2000.

Walter L. Sutton, Jr.,

Federal Highway Deputy Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA-2000-7635]

Highway Motor Fuel Reporting Reassessment; Public Workshop

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; public workshop; request for comments.

SUMMARY: The FHWA presents this statement of proposed policy regarding the methodology to be used by the FHWA for estimating Highway Trust Fund (HTF) receipts attributable to the States. This motor fuel attribution process is used in determining the distribution of Federal-aid highway funds in three large highway programs and the minimum guarantee. The purpose of this policy announcement is to provide information on the FHWA's proposed changes to reporting of motor fuel data from the States to the FHWA, and to gather comments on potential changes to the reporting procedures. Also, a one-day workshop will be held to assist individuals who wish to know more about the procedures and to discuss this subject matter.

DATES: Comments on the proposed policy must be received on or before October 30, 2000. The public workshop will be held on October 5, 2000, from 8:30 a.m. to 5 p.m., e.t., Washington, DC 20590-0001.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at <http://dmses.dot.gov/submit>. All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal Holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically.

The workshop location is the Capitol Hill Holiday Inn, 550 C Street SW.,

Washington, DC. For details on registration and hotel accommodation information, and to make reservations to attend this meeting, please contact Ms. Gina Burge of Harrington-Hughes and Associates, Inc. at (202) 347-3511 by September 21, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Howard, Office of Highway Policy Information, (202) 366-0170; or Ms. Gloria Hardiman-Tobin, Office of the Chief Counsel, HCC-32 (202) 366-1397, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590-0001. Office hours are from 8 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or retrieve comments online through the Document Management System (DMS) at: <http://dmses.dot.gov/submit>. Acceptable formats include: MS Word (versions 95 to 97), MS Word for Mac (versions 6 to 8), Rich Text File (RTF), American Standard Code Information Interchange (ASCII) (TXT), Portable Document Format (PDF), and WordPerfect (versions 7 to 8). The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site.

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The "Guide to Reporting Highway Statistics," is available for review at the URL: <http://www.fhwa.dot.gov/ohim/ghwystat.htm>. Additional information on the Internal Revenue Service (IRS) projects Excise Files Information Retrieval System (ExFirs) and Excise Summary Terminal Activity Reporting System (ExSTARS) may be found at the URL: <http://www.taxadmin.org/fta/mf>.

Background

Under the Transportation Equity Act for the 21st Century (TEA 21)(Public Law 105-178, 112 Stat. 107(1998)), motor fuel data are used in the apportionment of Federal Surface Transportation Program (STP) funds, National Highway System (NHS) funds, Interstate Maintenance (IM) funds, and the minimum guarantee program funds. About \$11.3 billion annually are

apportioned based on State-reported motor fuel data. The following shows these factors for fiscal year (FY) 2000:

- Highway Trust Fund payments to the highway account are used as a 35 percent factor for distributing about \$5.4 billion in FY 2000 STP funds.

- Diesel fuel used on highways is used as a 30 percent factor for distributing about \$4.6 billion in FY 2000 NHS funds.

- Commercial vehicle contributions to the highway account are used as a 33.3 percent factor for distributing about \$3.8 billion in FY 2000 IM funds.

- The minimum guarantee, under which each State is guaranteed that its share of apportionments and funding for highway priority projects will be at least 90.5 percent of its share of contributions to the highway account of the Highway Trust Fund, is estimated to be about \$6.7 billion in FY 2000.

The current process for attributing motor fuel data was formulated in 1985. In the policy statement published on June 21, 1985, under FHWA Docket No. 85-13, at 50 FR 25812, FHWA established highway use of motor fuel as its attribution basis, and defined a new method to attribute the non-fuel truck taxes (the tire, truck and trailer retail excise, and heavy vehicle use taxes), using special fuels as the attribution factor. Prior to this change, truck vehicle registrations had been used as the attribution factor for these taxes. These changes were in response to the Surface Transportation Assistance Act of 1982 (Public Law 97-424, 96 Stat. 2097) which created a Federal-aid program funding category that relied on attribution, and in which truck taxes were raised significantly. Since June 1985, no policy changes have been made to the attribution process.

Recognizing the increasing importance of accurate, timely reporting of motor fuel and related attribution data in determining State funding shares, the FHWA, with expert support from the American Association of State Highway and Transportation officials (AASHTO) and the Federation of Tax Administrators (FTA), initiated a review of the motor fuel data reporting system. As part of the review, the FHWA is evaluating the attribution process to determine the continued quality of the attribution methodology, and to identify where improvement can be made. Experts on motor fuel taxation and reporting from several State departments of revenue and transportation and the FHWA field offices met with the FHWA, the AASHTO, and the FTA, and provided technical expertise and feedback to the review. Two meetings were held in