

STATUTORY REFERENCES:

23 U.S.C. 202, 203 & 204; SAFETEA-LU, Section 1101(a)(9)(D)

Funding:

Fiscal Year	2005	2006	2007	2008	2009
Authorization	\$88.4M	\$95.2M	\$95.2M	\$98.6M	\$102.0M

For FY 2010, the Department of Defense Appropriations Act, 2010 (Public Law (P.L.) 111-118) extended the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, P.L. 109-59) through February 28, 2010 at the FY 2009 fund levels. Therefore, at this time, the full amount of FY 2010 PLHD Program funding is not yet available. Under the provisions of Section 186 of Division A of the Consolidated Appropriations Act, 2010 (P.L. 111-117), Congress designated a total of \$83,021,930 of the FY 2010 PLHD funds for specific projects listed in the Conference Report accompanying the Consolidated Appropriations Act, 2010. In addition, under the provisions of Section 120(e), Redistribution of Certain Authorized Funds, of Division A of the Consolidated Appropriations Act, 2010, any authorized funds, which are not available for obligation due to the imposition of an obligation limitation, are not available for the PLHD program, but are redistributed to the states.

Federal Share:

In accordance with 23 U.S.C. 204(b), the Federal share of the costs for any project eligible under this program is 100 percent.

Obligation Limitation:

The PLHD funds are subject to obligation limitation; however, 100 percent obligation authority is provided with the allocation of funds for the selected projects. The obligation limitation reduces the available funding for the program under the provisions of SAFETEA-LU Section 1102(f). Because the Federal Highway Administration is currently operating under an extension of SAFETEA-LU as provided by the Department of Defense Appropriations Act, 2010 (Public Law (P.L.) 111-118), the obligation limitation for FY 2010 has not yet been calculated

Eligibility:

Under the provisions of 23 U.S.C. 202(b)(1)(A), the funds shall be allocated “among those states having unappropriated or unreserved public lands, nontaxable Indian lands or other Federal reservations, on the basis of need in such states.” Since all of the states have some Federal lands, all are eligible to apply for PLHD funding.

In accordance with 23 U.S.C. 204(b)(5), the PLH funds are available for “any kind of transportation project eligible for assistance under Title 23, United States Code, that is within, adjacent to, or provides access to” Federal lands or facilities. Under the provisions of 23 U.S.C. 204(b)(1)(A), the PLH funds are available for transportation planning, research, engineering, and construction of the highways, roads, and parkways, and of transit facilities within the Federal public lands. Under the provisions of 23 U.S.C. 204(b)(1)(B), the PLH funds are also available for operation and maintenance of transit facilities located on Federal public lands.

Under 23 U.S.C. 204(h), eligible projects under the PLH program may also include the following:

- Transportation planning for tourism and recreational travel, including the National Forest Scenic Byways Program, Bureau of Land Management Back Country Byways Program, National Trail System Program, and other similar Federal programs that benefit recreational development.
- Adjacent vehicular parking areas.
- Interpretive signage.
- Acquisition of necessary scenic easements and scenic or historic sites.
- Provision for pedestrians and bicycles.
- Construction and reconstruction of roadside rest areas, including sanitary and water facilities.
- Other appropriate public road facilities such as visitor centers as determined by the Secretary.
- A project to build a replacement of the federally owned bridge over the Hoover Dam in the Lake Mead National Recreation Area between Nevada and Arizona.

For FY 2010, the designated projects listed in the Conference Report accompanying the Consolidated Appropriations Act, 2010, must meet the above statutory eligibility criteria, because Congress did not include any “notwithstanding any other provision of law” eligibility provision this year.

Selection Criteria:

The only statutory criterion is found in 23 U.S.C. 202(b)(1)(B): "The Secretary shall give preference to those projects which are significantly impacted by Federal land and resource management activities that are proposed by a state that contains at least 3 percent of the total public land in the United States." The following eleven states have at least 3 percent of the Federal public lands in the United States: Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, and Wyoming.

Under the provisions of Section 186 of Division A of the Consolidated Appropriations Act, 2010, Congress has statutorily designated the PLHD funds for FY 2010 for specific projects listed in the accompanying Conference Report. Therefore, the above selection criteria, under 23 U.S.C. 202(b)(1)(B), does not apply for FY 2010 PLHD funding.

Also, because of the statutory designation of FY 2010 PLHD funds, previously developed administrative selection criteria for the PLHD program, such as equitable distribution of funding, leveraging of private or other public funding, state priorities, expeditious completion of a project, or the transportation benefits of the project, will also not be considered.

Solicitation Procedure:

For FY 2010, since PLHD funding has been designated by Congress for specific projects, applications will only be solicited for those projects. As indicated previously, these designated projects must still meet the eligibility requirements under Sections 202 and 204 of Title 23.

A memorandum is issued by the FHWA Headquarters Office of Federal Lands Highway to the FHWA division offices requesting submission of applications. The division offices send the memo to the State DOTs, who are responsible for submitting the applications to FHWA.

Submission Requirements:

Only State DOTs may submit applications for funding under this program. Because Congress designated the projects to be funded in FY 2010, a short application form will be used. The application for each project must include the following information (13 items). Those applications that do not include these items are considered incomplete and funding will not be available for those projects until an acceptable application is submitted. The application for each project must be submitted electronically in MS Word format, and be limited to two pages.

1. **State** in which the project is located.
2. **County** in which the project is located.
3. **U.S. Congressional District No.(s)** in which the project is located. This is the U.S. Congressional District, not the state district.

4. **U.S. Congressional District Member's Name(s)**. This is the U.S. Congressional District representative, not the State legislature.
5. **Project Designation (Title)** - This should be the description of the project as listed in the Conference Report accompanying the Consolidated Appropriations Act, 2010.
6. **Project Location** - Describe the specific location of the project, including route number and termini, if applicable. Also include appropriate local jurisdiction in which the project is located.
7. **Proposed Work** - Describe the project work that is to be completed under this particular request, and whether this is a complete project or part of a larger project. Please ensure that the proposed work falls within the description of the designated project (Item 5 above).
8. **Eligibility** - Specify how this project is eligible for PLHD funds, including what Federal public lands or facilities are being served by the project, and whether the project is within, adjacent to, or provides access to these Federal public lands or facilities. If the project is not eligible for PLHD funds, please indicate that here, and explain.
9. **Project Purpose & Benefits** – Describe the purpose of the project and the expected benefits to be realized upon completion of the project. Particular attention should be given to how the proposed project will benefit access to Federal public lands or facilities, as well as other transportation benefits that may include improved public safety, economic development, community enhancement, etc. Specifics, such as anticipated reductions in accident rates, etc. should be provided if available.
10. **Project Administration** - Indicate whether the project is being administered by the State transportation agency, a county or other local jurisdiction, a Federal Lands Highway division of FHWA, or another Federal agency. This information is needed to determine to whom to allocate the funds for the project.
11. **Amount of Federal PLHD Funds Requested** - Indicate the amount of Federal PLHD funds earmarked for the fiscal year. This should be the award amount shown in Attachment 1 to the solicitation memo.
12. **If additional funding above the earmarked amount is available...**

Last fiscal year, there was additional PLHD program funding available above the earmarked amounts. If program funding amounts continue at the FY 2009 level, there will most likely be additional PLHD program funding available again above the earmarked amounts which may also be allocated for the designated projects. Therefore, please provide the following information:

- a. **What is the total additional amount needed above the earmark to complete all phases?** – Indicate the total funding needed above the earmarked amount to complete all phases of the project.

- b. **Assuming funding is available on July 1st, how much could be obligated in fiscal year 2010 for designated project only? What project milestone would this achieve?** – Indicate the amount of additional funding above the earmarked amount that could be obligated during fiscal year 2010 for the earmarked phase of the project only. Please do not include other phases of work that are not intended for inclusion with this earmarked designation. Also include the project milestone or phase of work that the additional funding would achieve.

13. **Project Schedule** – The anticipated project schedule is required. The schedule should indicate the proposed date that funds will be obligated, when construction will commence, and the anticipated completion date.

Announcement of Awards / Allocation of Funds

After the applications are received, it is required that Congress be notified before the funds are allocated to the states. When this Congressional notification process is completed, the Federal Lands Highway Office will issue an announcement by email to all FHWA division offices, announcing the PLHD projects that will be funded and the amount of funding for each project.

At that time, states may request that funds be allocated for any projects for which the funds are ready to be obligated. The State transportation agency shall send an email to the FHWA division office indicating the project, the amount requested for allocation, and the date by which the funds will be obligated. The Federal Lands Highway Office will issue the allocation memorandum within a few days of receiving the allocation request.
