



U.S. Department  
of Transportation

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Bernard Cohen, Secretary  
Executive Office of Transportation  
State Transportation Building  
10 Park Plaza, Room 4150  
Boston, MA 02116

DEC 06 2007

**Re: Request for approval of FY 2008-2011 Statewide Transportation Improvement Program (STIP)**

Dear Secretary Cohen:

The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) have completed our joint review of the Fiscal Year 2008-2011 Massachusetts Statewide Transportation Improvement Program (STIP) transmitted with your letter of October 1, 2007. We cannot approve the STIP for the following reasons:

- The STIP is not financially constrained. In accordance with 23CFR450.216(m), "projects included in the first two years of the STIP shall be limited to those for which funds are available or committed". Without passage by the Massachusetts General Court of transportation bond legislation or other funding mechanism, funding for the FY 2008 and FY 2009 (and beyond) highway construction program is not available or committed as required.
- The Transportation Improvement Programs (TIPs), that the STIP is based upon, are not in conformity with the State Implementation Plan for attaining national ambient air quality standards (NAAQS), in accordance with requirements of the Clean Air Act. 40CFR93.108 requires that "TIPs must be fiscally constrained in order to be found in conformity". Without conforming TIPs, we are unable to approve the STIP. Please refer to our letter of December 5, 2007 (copy enclosed) for additional information on the Air Quality Conformity Determinations of the TIPs.

Please note that, in the absence of an approved FY 2008-2011 STIP, the existing FY 2007-2010 STIP remains in effect. Therefore, to the extent that funds are available, projects in the FY 2008 element of the FY 2007 - 2010 STIP may be advanced. In accordance with 23CFR450.218(d), the FHWA and FTA may also approve specific projects or programs that are necessary to maintain or establish highway and transit operations, even though those projects or programs may not be included in an approved STIP.

We are pleased that the Governor has filed a transportation bond bill that demonstrates the State's commitment to advancing much needed transit and highway improvements, and we encourage the State to take up the passage of this bond bill with equal urgency. In the interim, we are strongly recommending that the State and the Massachusetts Metropolitan Planning Organizations (MPOs) take this opportunity to re-examine and re-prioritize projects and funding commitments in the STIP that are more representative of priorities that better reflect the increasingly pressing concerns and needs in the bridge and safety areas that we have been recently discussing with you.

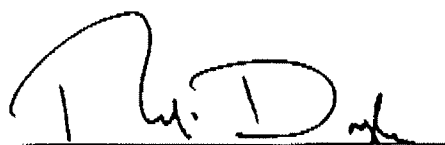
As you and your staff enter into negotiations with the Massachusetts Association of Regional Planning Agencies and the MPOs, we encourage you to establish short-term program priorities that are consistent with the limited highway and transit funds available. New funding targets will need to be developed to carry out these priorities and reflected in the re-submittal of the FY 2008-2011 STIP once the bond bill has passed. In this very difficult resource-constrained environment, we recognize that a re-examination of the STIP may be advanced more expeditiously and objectively with additional assistance, including the use of a facilitator. We offer our assistance and participation during these negotiations. The key issues and program priority concerns that we believe need to be more fully addressed in the STIP/TIP are as outlined in greater detail in the enclosure titled Appendix A: Key Issues to Be Addressed in the Re-examination of the FY 2008-2011 STIP.


We reiterate that it is of the utmost importance that transportation bond legislation be enacted as early as possible in the next calendar year so that the Federal Fiscal Year 2008 highway program can be carried out in an orderly and timely manner. As you know, obligation authority for our core highway programs is tied to the Federal Fiscal Year, which ends September 30, 2008. Without the availability or commitment of funding, the Commonwealth would be unable to use obligation authority tied to FY 2008.

As noted in our letter of July 30, 2007 (copy attached) to MassHighway Commissioner Paiewonsky on the closeout of the FY 2007 highway program, the practice of deferring the majority of obligations of Federal funds until the last quarter is no longer acceptable. We are confident that the State can reverse this practice, however insufficient progress in this area may preclude access to redistribution of obligational authority in August. In the past several years the additional amounts of authority granted to MA has ranged from \$50-90 million dollars.

We look forward to working with you as take steps to achieve a fiscally constrained, conforming STIP.

Sincerely,

  
Richard H. Doyle  
Regional Administrator  
Federal Transit Administration

  
Lucy Gaslianskas  
Division Administrator  
Federal Highway Administration

**3 Enclosures:**

- 1.) December 5, 2007 FHWA/FTA Conformity Letter
- 2.) Appendix A: Key Issues to be Addressed in the Re-Examination of the FY 2008-2011 STIP
- 3.) July 30, 2007 FHWA Letter on FY 2007 End of Year Project/Program Closeout

cc: Wendy Stern, Undersecretary of Planning and Program Development, EOTPW  
Susan Bristol, Undersecretary for Administration and Finance  
Luisa Paiewonsky, Commissioner, MassHighway  
Frank Tramontozzi, Chief Engineer, MassHighway  
David Mohler, Acting Deputy Secretary for Planning, EOTPW  
Arthur Shea, CEPO Director, EOTPW  
Robert Varney, Regional Administrator, EPA  
Arleen O'Donnell, Commissioner, Massachusetts DEP  
Massachusetts Regional Planning Agencies  
MassHighway District Highway Directors



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December 5, 2007

Bernard Cohen, Secretary  
Executive Office of Transportation and Public Works  
State Transportation Building  
10 Park Plaza, Room 4150  
Boston, MA 02116

Dear Secretary Cohen:

**Subject: Massachusetts – Fiscal Year 2008-2011 Transportation Improvement Programs/Air Quality Conformity Determinations**

The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) have completed our joint review of the Metropolitan Planning Organizations' FY 2008-2011 Transportation Improvement Programs (TIPs) and accompanying Air Quality Conformity Determinations transmitted by your office on October 1, 2007.

Based on our review, and the recommendations received from the Environmental Protection Agency (EPA) on November 26, 2007, the FY 2008-2011 TIPs and their air quality conformity analyses do not support a positive conformity finding.

A major criterion of the Transportation Conformity Rule is section 93.108 which requires that "TIPs must be fiscally constrained in order to be found in conformity". Further, the FHWA/FTA joint metropolitan planning regulations at 23CFR450.324(h)(i), stipulate that "projects included in the first two years of the TIPs shall be limited to those for which funds are available or committed". Without passage by the Massachusetts General Court of Transportation Bond legislation or other funding mechanism, funding for the FY 2008 and FY2009 highway construction program is not available or committed, as required. Consequently, the FY 2008-2011 TIPs are not fiscally constrained and we find their air quality analyses invalid for supporting a positive air quality conformity finding at this time.

We also note that the demonstration of timely implementation of transportation control measures (TCMs) in the State Implementation Plan (SIP) is required for a positive conformity determination. The Commonwealth has submitted to EPA a SIP revision requesting the substitution/modification of three TCMs, the Arborway Restoration, the Green Line Extension to

Ball Square, and the Blue Line/Red Line Connection. This SIP revision is pending EPA approval. Until the SIP revision receives final EPA approval, transportation conformity must be conducted with respect to the existing TCMs in the currently approved SIP. The Boston MPO appropriately continues to carry forward the original SIP TCM projects in the air quality conformity analysis. However, upon EPA's approval of the SIP TCM substitutions, we shall expect the Boston MPO to amend its transportation plan to include those substitutions within sixty days. In the meantime, your staff needs to continue to provide quarterly reports and other updates, as necessary, to FHWA and FTA on the progress of the SIP TCM substitutions.

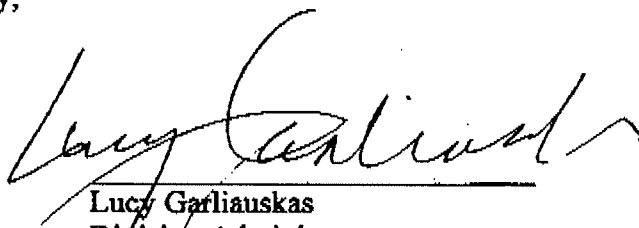
Lastly, we note that the Massachusetts Department of Environmental Protection (DEP) must concur with the MPOs' air quality conformity determinations, prior to our being able to make a positive conformity finding.

Should you have any questions regarding the air quality conformity determination, please feel free to contact Michael Chong at (617) 494-3275 or Andy Motter at (617) 494-3560.

Sincerely,



Richard H. Doyle  
Regional Administrator  
Federal Transit Administration



Lucy Garliauskas  
Division Administrator  
Federal Highway Administration

cc: Luisa Paiewonsky, Commissioner, MassHighway  
David Mohler, Acting Deputy Secretary for Planning, EOT  
Robert Varney, EPA Regional Administrator  
Arleen O'Donnell, Commissioner, Massachusetts DEP

## **APPENDIX A: KEY ISSUES TO BE ADDRESSED IN THE RE-EXAMINATION OF THE FY 2008-2011 STIP**

- The funding for the Bridge Program presented in the STIP is significantly less than the amounts needed to reduce the number of structurally deficient bridges. As indicated in the letter from the Massachusetts Highway Department (MassHighway) Commissioner Luisa Paiewonsky of November 20, 2007, MassHighway will be updating the bridge needs analysis that was performed in 2005 in order to provide a revised funding strategy to address current needs. We expect that this effort will be given the highest priority and that future STIP submissions will consider bridge needs analysis and that programmed amounts in STIPs will correlate to agreed upon bridge condition goals. As a minimum for a resubmitted FY 2008-2011 STIP, we expect the programming level to reflect the latest bridge needs for each year, adjusted to year of expenditure, and to consider which projects can be advanced in a given fiscal year.

As it concerns the needs, MassHighway conducted in 2005 a needs analysis using the PONTIS Bridge Management System. The study considered only typical bridges which at that time cost approximately \$2 million each to replace. The study did not include bridges over \$15 million. The analysis revealed that a funding level of \$200 million would be needed annually, including \$60 million for bridge preservation, which would lead to a 20% reduction in the number of structurally deficient bridges over 5-years. In the two years since the analysis was performed, construction costs have risen significantly and MassHighway now advises us that at least \$250 million would be required in 2007 dollars to match the buying power of the 2005 dollars, using the same assumptions. These amounts, adjusted to year of expenditure for all years, should be used as a starting point for programming, until an updated analysis is completed.

As it concerns which projects can be advanced in FY 2008, we understand from MassHighway that the State can advance a \$60 million bridge preservation program and a \$125 million program of non-Advance Construction bridge rehabilitation and replacement projects. In addition, the following three Advance Construction bridge projects can be ready to be advertised:

- Dedham-Needham Bridge Replacement on Route 128 (Add-A-Lane Bridges)
- Gill-Montague Bridge Rehabilitation Project (Avenue A over the CT River)
- North Adams Bridge Rehabilitation (Hadley Overpass) Route 8

- The Safety Program falls short of a very important goal of ensuring the obligation and expenditure of \$15 million per year (your annual apportionment of safety funds from FHWA) on eligible safety projects. In our letter of May 4, 2007 (copy attached) we strongly urged that you adopt a goal so that strategies to improve safety from the Massachusetts Strategic Highway Safety Plan may be implemented and high priority safety projects are advanced in the most expeditious manner. We ask that further consideration be given to increasing the amounts programmed for the Safety Program.

- The Interstate Maintenance Program, as programmed in the proposed STIP, will not maintain existing pavement conditions. Although we have agreed with your staff that a \$54 million IM program for FY2008 is adequate, this level of investment extended over 4 years will not sustain the current pavement conditions on the Interstate System. Based on the information from your Pavement Management System and other information gathered from the MassHighway District Offices, the level of programming needed to maintain existing conditions is \$75-\$80 million per year, prior to adjusting for year of expenditure costs.
- There are a number of Discretionary Projects that do not appear to be properly programmed. As we noted in our May 4, 2007 letter (copy attached), Congressionally earmarked projects should be programmed in the TIP/STIP only when full funding is available to cover the entire cost of the project over the time period expected to implement the project. There may also be other projects that do not appear to be consistent with the project descriptions written in law. The projects in question are as follows:

#### FY 2008

Program	Location	Project No.	Description	Total
HPP-2814	Burlington	29491	Middlesex Turnpike (SAFETEA-LU Phase 1)	\$861,300
TI-178	Brockton	604765	Streetscape & Landscape improvements	\$1,730,650
TI-173	Cape Cod	604488	Cape Cod rail trail	\$595,975
HPP-843	Danvers/Peabody	604874	Border to Boston bikeway - design	\$174,000
S 115	Easthampton	604441	Manhan Trail (Coleman Rd extension)	\$528,000
HPP-2439	Sturbridge/Southbridge	None	Grand Trunk Rail Trail	\$484,000
HPP-847	Northampton	604597	I-91 @ exit 19 - design NB & SB ramps	\$261,000
TI-176	Pioneer Valley	603903	I-91 ITS construction	\$1,087,500
HPP	Worcester	604473	N Main St gateway (TEA-21)	\$2,306,000
HPP	Yarmouth	602923	Packets Landing bike/ped improvements	\$589,125
CMAQ	Pioneer Valley	603903	I-91 ITS construction	\$1,187,336
CMAQ	Franklin	603903	I-91 ITS construction	\$761,924
CMAQ	Franklin	603903	I-91 ITS construction	\$855,374
CMAQ	Pioneer Valley	603903	I-91 ITS construction	\$1,012,212

#### FY 2009

Program	Location	Project No.	Description	Total
HPP	Cape Cod	None	Rural Roads Initiative (TEA-21)	\$218,000
HPP-2850	Berkshire	None	Bike Path TBD	\$4,321,300
HPP-1761	Hudson/Stow	604875	Assabet Rail trail design	\$326,250
HPP	New Bedford	602857	JFK Highway / Route 18 (TEA-21)	\$13,000,000
HPP-847	Northampton	604597	I-91 @ exit 19 - design NB & SB ramps	\$261,000
TI-176	Pioneer Valley	603903	I-91 ITS construction	\$870,000
HPP	Somerville	None	I-93 Mystic Avenue Interchange design	\$87,000

FHWA will reconsider its approval in a resubmitted STIP, if it can be demonstrated that adequate funding is programmed to fully implement all phases of the projects in question, and if it can be demonstrated that the project descriptions are consistent with the descriptions written in law.



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

**Massachusetts Division**

55 Broadway, 10th Floor  
Cambridge, MA 02142

July 30, 2007

Ms. Luisa Paiewonsky  
Commissioner  
Massachusetts Highway Department  
10 Park Plaza  
Boston, MA 02116-3969

In Reply Refer To:  
HDA-MA

**Subject: FY 2007 End of Year Project/Program Closeout**

Dear Commissioner Paiewonsky:

The purpose of this letter is to recap our agreed upon actions that were discussed at our recent meeting about the delivery and implementation of the FY 2007 Federal-aid Highway Program. As you know, I had briefly outlined FHWA's concerns in a meeting with Secretary Cohen during which I indicated that we would have a more detailed discussion with you and your staff as well as key staff from the Executive Office of Transportation and Public Works (EOTPW) to communicate our detailed concerns and the specific actions that need to be completed by the end of the Federal fiscal year, September 30, 2007.

The authorization of Federal-aid projects and obligation of Federal funds has occurred later and later in the Federal fiscal year for the last several years. As of July 30, 2007, the Commonwealth of Massachusetts has obligated around \$12 million out of approximately \$360 million of available obligation authority for projects programmed for the Statewide Road and Bridge Program identified in the Federal Fiscal Year (FFY) 2007 Statewide Transportation Improvement Program (STIP). We understand that the delays in obligations are due to various reasons including fiscal issues related to bonding and project readiness.

As we discussed, regardless of the reasons for delays, the practice of deferring the majority of obligations until the last quarter is no longer acceptable. FHWA will not process any requests for redistribution unless we are confident that the State can reverse the trend of carrying significant obligation authority balances through the end of the FFY. Also, FHWA will not authorize any projects that are not fully ready to advance. To that end, we are asking for a revised project schedule with proposed completion dates and programmed fiscal commitments. While these requirements pose some challenges, we are confident that they will be successfully addressed, and we are prepared to assist you in any way that we can.

Specifically the detailed actions we agreed are needed, in order to successfully deliver and carry out the FY 2007 Federal-aid Highway Program, are detailed below:

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**AMERICAN**  
**ECONOMY**

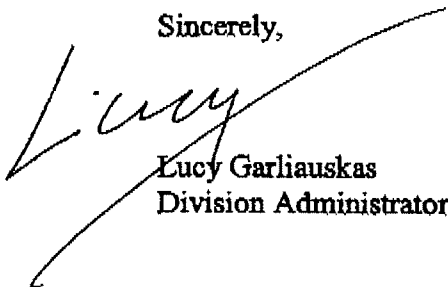




- 1) Demonstrate to FHWA that the Commonwealth of Massachusetts has the fiscal means to implement, in a timely way, Federal-aid projects. To this end, we have agreed that we will meet in the near future to reach a common understanding/agreement of the fiscal picture.
- 2) Identify by mid-August the projects that will be ready to go this year (plans, specifications, and estimates complete; right-of-way secure; environmental process completed, etc).
- 3) Submit request for redistribution of Obligation Authority (OA) to FHWA. Please note that the first two actions need to be completed for the OA redistribution request from Massachusetts to be accepted by FHWA. The national call for OA redistribution is anticipated in mid-late August, with the actual redistribution of OA to States anticipated in early September.
- 4) Coordinate FY 2007 end-of-year implementation plan with the Massachusetts Metropolitan Planning Organizations (MPOs) so that TIPs/STIP can be amended, as needed. There should also be a discussion of the implications to the FY 2008-2011 TIPs/STIP which are currently under development. We understand that there is a meeting scheduled for August 10<sup>th</sup> with the Massachusetts Association of Regional Planning Agencies (MARPA) to begin the discussions.
- 5) Submit authorization requests to FHWA for approval, allowing sufficient time for FHWA to conduct a thorough review and take appropriate action. Please note that we will need up to two weeks to review full FHWA oversight projects. Also, consistent with previous years, our goal is to complete all approvals by September 14, 2007.

We are prepared to work with you, your staffs, EOTPW, and the MPOs to deliver a successful FY 2007 Federal-aid Highway Program.

Sincerely,



Lucy Garliauskas  
Division Administrator

cc: Secretary Bernard Cohen, EOTPW  
Robert Rooney, EOTPW  
David Anderson, MassHighway  
David Mohler, EOTPW Planning  
Arthur Shea, EOTPW CEPO  
Massachusetts Regional Planning Agencies  
Richard Doyle, FTA Region I



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

**Massachusetts Division**

55 Broadway, 10th Floor  
Cambridge, MA 02142

May 4, 2007

In Reply Refer To:  
HDA-MA

Mr. Bernard Cohen  
Secretary of Transportation  
Executive Office of Transportation  
10 Park Plaza  
Boston, MA 02116-3969

**Subject: Fiscal Year 2008-2011 Statewide Transportation Improvement Program Guidance**

Dear Secretary Cohen:

This letter is to provide you with guidance to be used in the development of the Fiscal Year 2008-2011 Transportation Improvement Programs, and the Statewide Transportation Improvement Program. In addition to the usual guidance on Federal-aid funding, we are also providing you with guidance on the safety program, the bridge program and a variety of transportation planning matters.

**Funding Guidance:**

For our guidance on estimates of Federal-aid funding available for program development, please refer to the attachment to this letter. In it you will find specific Obligation Authority (OA) estimates by year.

Please be advised that each years' total available OA includes an estimate of redistributed OA in the amount of \$35 million. This figure is based on a seven-year average of redistributed OA to the Commonwealth, from FY 2000 thru FY 2006. As in prior years, we expect that the *total* OA will be subject to the normal programming negotiations with the Massachusetts Association of Regional Planning Agencies (MARPA).

**Safety Program Guidance**

As it concerns safety, we have just completed a very successful year, under the leadership of Commissioner Paiewonsky, during which the first Massachusetts Strategic Highway Safety Plan was prepared and adopted. Now, as we turn to implementation of that plan, it is important that EOT and MassHighway, in collaboration with the Metropolitan Planning Organizations (MPOs), establish a funding goal for the safety program to ensure that the Commonwealth has in place a safety program of the highest caliber, and to further ensure that high priority safety projects are advanced in the most expeditious manner. We would strongly urge that you consider adopting a goal that ensures the obligation and expenditure of \$15 million per year (your annual apportionment of safety funds from FHWA) on eligible safety projects. As you proceed to meet

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AMERICAN  
ECONOMY**



with MARPA to discuss TIP funding targets and statewide set asides, it is important that you engage in the necessary discussions to establish the aforementioned goal and the mechanisms for achieving that goal. These could involve establishing sub regional targets for safety, a statewide line item for safety, some combination of the two, or some other appropriate mechanism.

To ensure that safety funds are being spent on the highest priority safety projects, it is equally important that EOT and MassHighway commit themselves to eventually advancing only safety projects that are derived from a Highway Safety Improvement Program (HSIP), a prioritized list of safety projects as determined by crash data. The recently developed Top 200 High Crash Intersection Location Report is an important component of the HSIP. The list of improvements that will be identified in the coming months for addressing high crash lane departure locations will become another important component of the HSIP, as will the anticipated High Crash Interchange Location Report. These lists, along with other needed statewide safety improvements, such as the ongoing program to replace signs on the Interstate and Freeway System, will eventually makeup a quality HSIP. While MassHighway is well on its way to developing an HSIP, we realize that it will take the better part of the coming year to have in place an HSIP with projects that are ready to go to construction. In the meantime, we must have an interim procedure in place to determine the eligibility of safety projects. During this period of transition we have decided that determinations of eligibility for use of safety funds will be on a case-by-case basis. Under this procedure MassHighway will need to provide a justification for each proposed safety improvement that is data-driven by the history and the types of crashes at the location in question. We will use this interim procedure thru the end of Federal Fiscal Year 2008. Beginning in FY 2009 eligible safety projects will be those derived from an approved HSIP.

### **Bridge Program Guidance**

We are concerned that there are some bridges on the Interstate System under temporary shoring and in need of being advanced to construction. We are particularly concerned about the following bridges:

- I-91 Southbound over US Route 5 and the B&M Railroad in Northampton
- I-195 Eastbound over Route 140 in New Bedford
- I-195 Westbound over Route 140 in New Bedford

The first bridge listed above has not yet proceeded into design and the other two are in the early stages of design. As you enter into negotiations with the MPOs on the TIPs and STIP, we urge that you give the highest priority to programming these bridges for construction in the FY 2008 element of the STIP.

We also request that you have the Department review any other bridges in need of immediate repairs, on and off the Interstate System, and ensure that they are programmed for construction as soon as possible.

**Transportation Planning Guidance**

In accordance with 23 CFR 450.324(h), as of December 11, 2007, cost estimates for projects in the TIP/STIP must use an inflation rate to reflect "year of expenditure dollars, based on reasonable financial principles and information, developed cooperatively by the MPO, and the State". Beginning with the FY 2008-2011 STIP, it is highly recommended that the projects in the TIP/STIP reflect year of expenditure costs.

Congressionally earmarked projects should be programmed in the TIP/STIP only when full funding is available to cover the entire cost of the project. The current practice of programming just the earmarked funds when they are insufficient to implement the project is not acceptable.

As the TIPs are developed by the MPOs, it is necessary that they include a list of major projects from the previous TIP that were implemented. This list must also identify any significant delays in the planned implementation of major projects, in accordance with 23 CFR 450.324(1)(2).

Lastly, we share your concerns regarding the situation with State funds and the Commonwealth's ability to carry out the Federally-aided program. In this connection, we look forward to meeting with you in the immediate future to engage in constructive dialog to address this matter.

We are available to meet at your convenience. Please do not hesitate to contact me if you have any questions.

Sincerely,



Richard Marquis  
Acting Division Administrator

cc: Luisa Paiewonsky, Commissioner MassHighway  
David Mohler, Acting Deputy Secretary for Planning, EOT  
Arthur Shea, Director of CEPO, EOT

**Attachment****FY 2008 thru 2011 Obligation Limitation Estimates****FY 2008**

Formula Obligation Limitation	\$515,000,000
Redistribution Estimate	\$35,000,000
sub-total	\$550,000,000

## Allocated Limitation

Section 1934 Projects	\$9,200,000
High Priority Projects (1-3676)	\$27,415,651 (est. same as fiscal 07)
High Priority Projects (3677-5173)	\$18,424,483 (est. same as fiscal 07)
sub-total	\$55,040,134

**Grand Total Limitation (OA)** **\$605,040,134 Fiscal Year 2008**

**FY 2009**

Formula Obligation Limitation	\$522,000,000
Redistribution Estimate	\$35,000,000
sub-total	\$557,000,000

## Allocated Limitation

Section 1934 Projects	\$7,400,000
High Priority Projects (1-3676)	\$27,415,651 (est. same as fiscal 07)
High Priority Projects (3677-5173)	\$18,424,483 (est. same as fiscal 07)
sub-total	\$53,240,143

**Grand Total Limitation (OA)** **\$610,240,143 Fiscal Year 2009**

**FY 2010\***

Formula Obligation Limitation	\$522,000,000 (est. same as fiscal 09)
Redistribution Estimate	\$35,000,000
sub-total	\$557,000,000

**Grand Total Limitation (OA)** **\$557,000,000 Fiscal Year 2010**

**FY 2011\***

Formula Obligation Limitation	\$522,000,000 (est. same as fiscal 09)
Redistribution Estimate	\$35,000,000
sub-total	\$557,000,000

**Grand Total Limitation (OA)** **\$557,000,000 Fiscal Year 2011**

\* Post SAFETEA-LU years