

## Background

Washington's Local Agency Federal Obligation Authority (OA) Policy was originally developed in 2012 to ensure delivery of the local share of the Federal Highway Administration (FHWA) program for each respective planning region or county.<sup>1</sup> The policy included provisions that described when funds would be sanctioned, if targets were not achieved.

It is critical that the **total statewide local OA is delivered annually**, the policy has been revised to streamline the overall delivery process based on recent experiences.

## Implementation

FFY 2019 – No sanctions will be applied to any MPO, RTPO and/or County lead agency.

FFY 2020 – Starting fresh in 2020. This was year one of the updated policy.

FFY 2021 – Second year of policy, sanctions may be applied to planning regions and counties that did not meet their target in FFY 2020, and do not meet their total target in FFY 2021.

FFY 2022 – Passage of the Infrastructure and Jobs Act (IIJA or Bipartisan Infrastructure Law (BIL)), as the OA policy continues. Sanctions may be applied to planning regions and counties that did not meet their target in FFY 2021, and do not meet their total target in FFY 2022.

## Statewide Local OA

FHWA distributes OA to the state annually, based on a pro-rata share of FHWA apportionment to obligation authority provided to the state. The state's OA must be obligated each FFY, by FHWA's September closing date (usually around September 25<sup>th</sup>). If the state's OA has not been obligated, it will be redistributed to other states to help ensure that the total nationwide OA is utilized.

The state's OA is split between WSDOT and Local Programs based on decisions made by the Governor, per the recent federal transportation act ([FAST Act State/Local Distribution](#)). Awaiting decision by the Joint Transportation Committee (JTC) for the new IIJA/BIL consistent with the new state legislative direction. (The recommendation is due to the Legislature September 30, 2022)

## Annual Local Allocation Equals Annual Target

The statewide local OA is allocated proportionally to each program apportionment.

**Apportionments** – The distribution of funds using a formula provided in federal law is called an apportionment. Each FFY, the FHWA is responsible for apportioning authorized funding for the various highway programs among the states according to formulas established in statute.

WSDOT then provides annual program allocations for STBG, CMAQ and TA to the MPO, RTPO and County lead agencies, as applicable. Each region/lead agency's annual allocation (plus their previous year carry-forward) equals their regional obligation target. This target must be delivered in the respective FFY, and it is the responsibility of each MPO, RTPO and County lead agency to ensure that their regional obligation target is met.

**Allocations** – The obligation target provided to MPO, RTPO and County lead agency for their prioritization and selection of projects.

*NOTE: [23 CFR 133\(e\)](#) requires the State to provide an amount of OA, for the STBG population over 200,000 funds, for use in that area based on the pro-rata share.*

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<sup>1</sup> The state's OA is split between WSDOT and local governments based on decisions by the Governor for the respective federal transportation act. Additional details on the FHWA program are described in [LAG Chapter 12](#).

## Delivery

Washington has been successful in obligating its full amount of OA initially provided to the state in the past FFY's. This successful delivery positions the state to receive additional OA in the form of Redistributed OA from those states that are unable to utilize all their OA.

### ▪ Redistributed OA

Redistributed OA is additional spending authority that must be obligated on projects no later than FHWA's September closing date. WSDOT and regions/local lead agencies cannot request redistributed OA unless they are certain to deliver the statewide OA. Therefore, WSDOT Local Programs must ensure that the statewide local obligation target will be delivered.

If the State receives redistributed OA, a region/local lead agency must have met their target by June 30<sup>th</sup> (or the first working day after if June 30<sup>th</sup> falls on a weekend), in order to be eligible to receive these funds (except as noted in the 3<sup>rd</sup> bullet of the Redistributed OA Priorities section below).

*NOTE: For a project to be counted in the June 30<sup>th</sup> delivery, a complete funding package must be at HQ Local Programs for submittal to FHWA or in FHWA's queue awaiting authorization. The submittal of a complete funding package does not mean that the agreement is at HQ Local Programs, yet still waiting for a STIP amendment, NEPA approval, right of way certification, DBE goals, etc.*

For states to receive redistributed OA, FHWA requires WSDOT and Local Programs, submit a list of additional projects and amounts to support the request for redistributed OA, no later than July 10<sup>th</sup>. The additional projects must obligate no later than FHWA's September closing date.

- Based on history, the remaining OA target on June 30<sup>th</sup> must be \$75 million or less, before a request for local redistributed OA is submitted.
- To submit a request for redistributed OA, regions/local lead agencies must provide a list of projects and amounts to be obligated no later than June 30<sup>th</sup> to WSDOT HQ Local Programs.

If the State receives redistributed OA, it will be split between WSDOT and Local Programs based on the July submittal to FHWA or if less than requested, at the pro-rata share of the request.

### Redistributed OA Priorities

Redistributed OA will be applied as follows:

- Projects submitted for redistributed OA on June 30<sup>th</sup>.
- If only a portion of the redistributed OA is received, it will be distributed proportionally to only those that provided a listing of projects, prior to the June 30<sup>th</sup> deadline.
- If additional redistributed OA is received beyond the list of projects, then all regions/local lead agencies that went over their target, by the close of the federal fiscal year, are eligible to receive a pro-rata share of the remaining redistributed OA.

Redistributed OA will be added to the next year's allocation.

## Sanctions

Applying sanctions:

- Statewide Local OA Target is NOT met  
If the Statewide Local OA Target is not met by FHWA's September closing date, the difference will be utilized by WSDOT, with no required repayment. This shall result in sanctions to any MPO, County lead agency, and/or LP managed program (minus RTPO funds), if they did not meet their regional obligation target by September's closing date. The sanctions would be applied to the next year's allocation.
  
- Statewide Local OA Target IS delivered  
If the statewide local OA is delivered by FHWA's September closing date:
  - First year – If an MPO, County lead agency, and/or LP managed program (minus RTPO funds), does not meet their annual target, the unmet portion shall be added with their next FFY annual allocation, increasing their year two annual target.
  - Second year – If the same MPO, County lead agency, and/or LP managed program (minus RTPO funds) does not meet their year two annual target, the failure to deliver shall result in sanctions (lost local allocation) the following FFY. Sanction amounts will equal the total amount of the undelivered year two target.
  - Subsequent years – Sanctions continue until MPO, County lead agency, and/or LP managed program (minus RTPO funds) meet their target.

*NOTE: Sanctions shall be applied to the most flexible funds.*

### Distributing sanctioned funds:

Sanctioned funds are distributed to entities that over-delivered their target by the end of the current FFY.

- To provide a fairer split of the sanctioned funds, entities that over-delivered and received 100% of redistributed OA for projects, that amount is deducted from the over-delivery amount for use in the sanctioned calculation.

## Definitions

**Federal Fiscal Year (FFY):** October 1<sup>st</sup> through September 30<sup>th</sup>

**FHWA's September closing date:** FHWA closes their project management and authorization system [Financial Management Information Systems (FMIS)] approximately one week prior to the end of the FFY and does not allow any additional project authorizations for the year.

**Obligation Authority (OA):** FHWA funding is only transferred to recipients as reimbursement for eligible project costs. So, rather than the money itself, states or other recipients are said to receive obligation authority -- authority (expressed as a dollar amount) to proceed with submitting projects to FHWA for final approval and obligation. FHWA distributes OA to states proportionately based on each state's share of apportioned and allocated revenues.

**Obligation:** The federal government's commitment to reimburse states or other entities for the federal share of eligible project costs. Following obligation by FHWA, the amount of FHWA funding associated with that project is said to be **obligated**.

**State's Obligation Target:** The total amount of annual OA provided for obligation within the Federal-aid Highway Program. FHWA requires that a state's OA (funding) must be obligated before the end of the FFY for which it is made available. Thus, each state's annual *obligation target* is equal to the amount of OA it has that year. If states fall short of their obligation target, the un-obligated OA is taken back by FHWA for redistribution to states that are able to use it that year.

**Statewide local obligation target:** In this policy document, the statewide local obligation target refers to the portion of Washington State's annual OA managed through WSDOT Local Programs. OA managed by Local Programs can be split into two broad categories: 1) funding sub-allocated to Metropolitan Planning Organizations (MPOs) and non-MPO counties (areas not required to have an MPO) for prioritization and awarding to projects (STBG, TA, CMAQ funds) and 2) funding prioritized and awarded to project sponsors by Local Programs (NHPP, Bridge, HSIP, SRTS, etc.).

**Regional obligation target:** Washington State practice is to provide local entities a portion of the states' annual OA for certain programs (STBG, TA, CMAQ) that is sub-allocated to areas of the state based on population. These sub-allocated amounts fund projects that are prioritized and selected by MPOs or non-MPO counties. The total amount of annual OA that is sub-allocated to each MPO or non-MPO County is considered to be that MPO or non-MPO County's regional obligation target (plus any carry-forward from the previous FFY, as discussed later in this document).

**Nationally Redistributed OA:** In years when one or more states fall short of their *state obligation target*, including discretionary OA originally allocated to TIGER, BUILD, INFRA, etc. the unused OA is taken back by FHWA and *redistributed* to states that will meet their state obligation target and have provided a listing of projects that can use redistributed OA prior to the end of that FFY.

**Sanction:** In this document, a sanction is a dollar amount of OA *reduction* applied to a region's *future* OA sub-allocation as a result of failing to meet its regional obligation target as outlined in this policy document. OA that has already been allocated is not taken away by a sanction. Rather, the next FFY's sub-allocation of new OA is reduced. The reduction of allocation will be made by the most flexible funds (e.g., any area, < 5,000 pop, etc.)

**Sanctioned OA / Redistributed sanctions:** In this document, sanctioned OA is the dollar equivalent of sanctions resulting from the policies outlined in this document. Sanctioned OA will be made available for redistribution pursuant to the policies explained by this document.

*NOTE: Additional details on the FHWA programs are described in LAG Chapter 12.*