Outdated Policies Hinder FHWA’s Ability To Oversee Unobligated Emergency Relief Funds
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What We Looked At
In August and September 2017, three costly hurricanes hit the United States and caused devastation to transportation infrastructure, particularly highways and bridges. The Department of Transportation (DOT) provided emergency aid for infrastructure repairs through the Federal Highway Administration’s (FHWA) emergency relief programs. Due to the size of DOT’s investment and the speed required for emergency relief, we initiated this audit. Specifically, we assessed FHWA’s controls over the use of its emergency relief funds.

What We Found
FHWA does not always deallocate funds that have not been obligated by the end of the fiscal year, as its policy requires. For example, of the $48,022,716 that FHWA allocated to Florida in 2018 and 2019 for hurricane damages, approximately $46 million remained unobligated in March 2020, but had not been deallocated. FHWA’s Division Offices also do not always deallocate unobligated quick release funds—funds that are allocated quickly for emergency repairs—as required. We noted that Florida DOT took over 10 months to obligate $13.4 million of $25 million in quick release funds, FHWA officials stated that the Agency is not statutorily required to deallocate these funds. FHWA also did not document required approvals for $48 million in quick release funds, and has not deobligated almost $2 million in unneeded emergency relief funds allocated to Texas DOT. FHWA is required to maintain adequate internal financial management controls. By not following its own policies, the Agency increases the risk that unused quick release funds and unobligated allocations will not be available for other States in need. Furthermore, the Highways ER Manual, last updated in May 2013, does not reflect current practices or align with other Agency policies. Still, despite these oversight weaknesses, we found a low incidence of improper payments in a sample of Highways disbursements.

Our Recommendations
FHWA partially concurred with our recommendation 1, did not concur with our recommendation 2, and concurred with our recommendations 3 through 6.
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In August and September 2017, three of the costliest hurricanes that ever hit the United States caused over 3,000 deaths, as well as damages totaling about $265 billion. As Hurricanes Harvey, Maria, and Irma each made landfall, they also caused devastation to transportation infrastructure, particularly highways and bridges. In the storms’ aftermath, the Department of Transportation (DOT) provided emergency aid for repairs to the damaged infrastructure—as it does following many U.S. natural disasters—through the Federal Highway Administration’s (FHWA) emergency relief programs.

Largely due to the impact of the 2017 disasters, the Federal Government has faced new challenges and risks in exercising stewardship—including the timely distribution and tracking—of its relief funds. Due to the size of DOT’s investment and the speed required for emergency relief, we initiated this audit. Our announced audit objective was to assess DOT’s controls over the use of its emergency relief (ER) program funds, including departmental controls over the distribution of appropriated funds under Public Law 115-123 (2018) and Public Law 116-20 (2019). However, after we conducted our initial audit work, we revised the scope of our review to focus exclusively on FHWA, which manages the bulk of DOT’s ER programs. Specifically, we assessed FHWA’s controls over the use of its emergency relief funds.

We conducted this audit in accordance with generally accepted Government auditing standards. Our audit work focused on the two FHWA program offices that administer ER funds—the Emergency Relief for Federal-Aid Highways (Highways) Program and Emergency Relief for Federally Owned Roads (Roads) Program. However, because we were unable to obtain and test the entire universe of the Roads emergency relief payments, our scope was limited to payments administered by Federal Lands Highway Division Offices. See exhibit A.
for more details on our scope and methodology and exhibit B for a list of the entities we visited or contacted.

We appreciate the courtesies and cooperation of Department of Transportation representatives during this audit. If you have any questions concerning this report, please call me at (202) 366-8543, or Jeff Womack, Project Manager, at (202) 579-3753.

cc: The Secretary
    DOT Audit Liaison, M-1
    FHWA Audit Liaison, HCFB-32
Results in Brief

**FHWA’s outdated policies hinder its ability to oversee emergency relief funds.**

FHWA does not always reallocate funds that have not been obligated by the end of the fiscal year, as its Highways ER Manual requires. For example, FHWA allocated $48,022,716 to Florida for damages caused by Hurricanes Irma and Michael—$28,467,522 in April 2018 and $19,555,194 in February 2019. Yet, as of March 31, 2020, approximately $46 million of this total (96 percent) remained unobligated but had not been reallocated. According to FHWA Headquarters officials, Highways Division Offices do not follow the ER manual because it is out of date. Instead, they follow FHWA Order 5182.1, which requires them to monitor unobligated balances monthly and reallocate funds that exceed recipients’ needs. However, the Divisions do not always reallocate unobligated quick release funds. Agency policy states that unless FHWA confirms that States still need the money, it must withdraw any quick release funds that are not obligated within 6 months of the disaster. When we noted that Florida DOT took over 10 months to obligate $13.4 million of $25 million in quick release funds, FHWA officials stated that the Agency is not statutorily required to reallocate these types of funds. However, FHWA is required to maintain adequate internal financial management controls. By not following its own policies, the Agency increases the risk that unobligated allocations and unused quick release funds will not be available for other States in need. For example, FHWA has not reallocated almost $2 million in unneeded emergency relief funds allocated to Texas DOT. FHWA also did not document approvals for $48 million in quick release funds allocated to 10 States and U.S. territories, which made it difficult for us to determine whether the funds should have gone to those recipients. Furthermore, the Highways ER Manual, last updated in May 2013, does not reflect current practices or align with other Agency policies.

Despite these oversight weaknesses, we found a low incidence of improper payments in a sample of Highways disbursements.

We made six recommendations to the FHWA Administrator to help the Agency improve oversight of its emergency relief programs. FHWA concurred with our

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1 An allocation occurs when one agency delegates its authority to obligate and outlay funds to another agency, such as a State DOT. Allocations are made when one or more agencies, such as State DOTs, share the administration of a program, such as FHWA’s ER programs, for which appropriations are made to only one agency.

2 The $28,467,522 is the remainder of a $97,406,595 allocation made in April 2018 after a reallocation of $68,939,073 was made in February 2019.

3 Funds intended as a down payment on the cost of recovery that expedites funding for emergency repairs.
recommendations 3 through 6, partially concurred with recommendation 1, and did not concur with 2.

Background

To ensure that State Departments of Transportation (State DOT) comply with Federal laws and regulations, FHWA, through its Division Offices, conducts oversight of all federally funded highway and road projects, reviews State DOTs’ capacities and systems for administering projects, and prescribes policies and procedures for processing disasters.

FHWA provides emergency relief assistance through two programs—Highways and Roads. The Highways Program provides funds for repair and reconstruction of Federal-aid highways. State DOTs apply for emergency relief for eligible projects. A Federal-aid highway is eligible for Highways Program funding if an event has caused at least $700,000 in damage. It may also be eligible if the State DOT provides justification showing that the damages are more than just heavy maintenance or routine emergency repair and the State’s Governor or the President declares that a disaster exists. The statute establishing Federal shares requires each State to pay a percentage of its disaster damage repairs to restore damaged facilities to pre-disaster condition. State or local agencies manage funded projects with oversight from the Division Offices.

The Roads Program provides emergency relief funds to Federal land management agencies and partners—such as the National Park Service and Bureau of Land Management—for the repair and reconstruction of federally owned roads. Such roads are eligible for funding if an event causes at least $700,000 in damages and the Director of the Federal Lands Highway Division Office determines that a disaster has occurred. Each agency manages its funded projects if it has the skills and resources. Otherwise, project management is handled by FHWA’s Federal Lands Highway Divisions.

FHWA Division Offices determine emergency relief allocation amounts on assessed damages and anticipated costs of repairs. During the application

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4 Title 23, U.S. Code (U.S.C.) § 120 (e)(4). According to this section, the Federal share payable for eligible permanent repairs to restore damaged facilities to pre-disaster condition may amount to 90 percent of the cost of the repairs if the State’s eligible expenses incurred in a Federal fiscal year exceed the State’s annual apportionment for the fiscal year in which the disasters or failures occurred.

5 There are seven Federal land management agency partners in our scope—the National Park Service, Forest Service, Fish and Wildlife Service, Bureau of Indian Affairs, US Army Corps of Engineers, Bureau of Reclamation, and the Bureau of Land Management.

6 A Federal Lands Highway Division Director’s disaster determination is not necessary if the President has issued a major disaster declaration.
process, applicants must provide Divisions with damage assessments and estimated repair costs for each project. The Divisions review the applications and approve or deny them accordingly.

On a semiannual basis, FHWA’s Office of Infrastructure allocates emergency relief program funds based on the Divisions’ requests for approved projects and anticipated obligations. Three offices comprise the Office of Infrastructure—Office of Stewardship, Oversight, and Management, which develops and implements the ER programs; Office of Bridge and Structures; and Office of Preconstruction, Construction, and Pavements.

State DOTs can also request ER funding using the “quick release” method, which expeditiously provides limited, initial ER funds for large disasters. A quick release represents a down payment on the total repair cost and expedites funding for emergency repairs. Eligible repairs are those that can be completed within 6 months of a disaster and will restore essential traffic, minimize the extent of damage, or protect remaining facilities. The quick release method means recipients do not have to wait for semiannual allocations, although eligible applications require concurrence from the Federal Highways Administrator and the Office of the Secretary of Transportation (OST). Once that occurs, FHWA informs the requester about the approval and amount, which are also posted on FHWA and/or DOT websites.

To conduct its oversight of emergency funds, FHWA uses: Emergency Relief Manual (Federal-Aid Highways) (2013) (ER Manual); ER Quick Release Standard Operating Procedures (2018); and FHWA Order 5182.1, Emergency Relief Program Responsibilities (2016). These documents cover procedures applicable to the Highways Program and guide FHWA, State, and local personnel on requesting, obtaining, and administering ER funds. The ER Manual is the primary operational guidance for the Divisions and State DOTs. We also reviewed the Emergency Relief for Federally Owned Roads Disaster Assistance Manual, the primary operational guidance for Federal Land Highways Divisions and FLMAs.

To help recovery efforts in 2018 and 2019, Congress enacted two emergency aid appropriations totaling over $3 billion for FHWA. Congress did not restrict the use of the $3 billion, and States have used those funds to repair damages that

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8 FHWA Order 5182.1.
9 FHWA, Interim SOP Quick Release Allocation Process for Emergency Relief (ER) and Emergency Relief for Federally Owned Roads Programs, 2018.
12 In addition to FHWA’s $100 million annual authorization which remains available until expended.
13 The supplemental funding remains available until expended.
occurred prior to 2017. While the ER programs are funded at $100 million annually, they cover billions of dollars in damages; hence the need for these large supplemental appropriations.

**FHWA’s Outdated Policies Hinder Its Ability To Oversee Emergency Relief Funds**

FHWA does not always prevent State DOTs from retaining allocations that remain unobligated at the end of the fiscal year, as required. The Agency also does not oversee the deallocation of unobligated quick release funds in accordance with its policy requirements or always maintain the required approvals for quick release fund allocations. Moreover, FHWA has not deobligated almost $2 million in unneeded emergency relief funds allocated to Texas DOT. Some of these issues may have occurred because the Agency’s ER Manual was last updated in 2013 and does not reflect current practices. Still, despite these oversight weaknesses, FHWA had a low incidence of improper payments for its disbursed emergency relief funds.

**FHWA Does Not Always Prevent State DOTs From Retaining Allocations That Have Not Been Obligated by the End of the Fiscal Year**

FHWA does not always enforce its process for preventing State DOTs from retaining unobligated allocations. The ER Manual states that State and local programs must work with their FHWA Divisions to identify funds that will not be obligated by the end of the fiscal year. The Divisions are then to coordinate with Headquarters to deallocate these balances. This process is intended to prevent recipients from keeping large balances of unobligated emergency relief funds and to help manage available funds as efficiently and effectively as possible. Furthermore, returned funds can be reallocated to other States in need.

We found $192,745,648\(^{14}\) in ER funds that had been allocated to highway projects between April 2018, and February 2019 but were never obligated.

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\(^{14}\) This amount was specifically applicable to allocations made using supplemental appropriations from Pub. L No. 115-123 and Pub. L. No. 116-20.
• For example, FHWA allocated $48,022,716 to Florida DOT—$28,467,522 in April 2018\textsuperscript{15} for Hurricane Irma-related damages, and $19,555,194 in February 2019 for Hurricane Michael-related damages. As of March 31, 2020, approximately $46 million of this total (96 percent) remained unobligated but not deallocated.

• Similarly, in April 2018, FHWA allocated $10,158,617 to New York State DOT for damages caused by Hurricane Irene in 2011 and by super storm Sandy flooding in 2013. As of March 31, 2020, approximately $9 million of this total remained unobligated.

FHWA officials informed us that a systematic control for withdrawal of these funds within a certain timeframe would be inappropriate. When we pointed out the requirements listed in the ER Manual, the officials stated that portions of the manual are out of date and instead they follow FHWA Order 5182.1, which requires FHWA to monitor monthly unobligated balances and deallocate funds that exceed recipients’ needs.

Unobligated funds that remain allocated are not included in determinations for supplemental requests and cannot be used to reduce requested amounts.

FHWA Does Not Always Follow Its Process for Identifying Quick Release Funds for Withdrawal

FHWA does not always withdraw unobligated quick release funds in a timely manner. FHWA Order 5182.1 requires the Divisions to consult with State DOTs to assess the need for quick release funds that remain unobligated 6 months after allocation. If the funds are no longer needed, the Order requires their withdrawal.

We identified quick release funds allocated to the U.S. Virgin Islands and the States of Florida and Kentucky\textsuperscript{16} that were not timely obligated.

• Between September 2017 and January 2018, the U.S. Virgin Islands received $2.5 million in quick release allocations. An allocation of $2 million was made in 2017 and another of $500,000 was made in January 2018. The Highways Program transferred $1.6 million of the $2.5 million to the Roads Program, which performed the work. The

\textsuperscript{15} The $28,467,522 is the result of a $97,406,595 allocation made in April 2018 and a deallocation of $68,939,073 in February 2019.

\textsuperscript{16} See table 1 for details on the disasters that affected these areas.
remaining balance of $900,000 was not obligated until September 2019, almost 2 years after the disaster.

- In September 2017, Florida DOT received $25 million in quick release funds but did not obligate all the funds within 6 months. It obligated $13.4 million over 10 months after the disaster, and as of December 2020, $5.2 million remained unobligated.

- In July 2018, the State of Kentucky received $3 million in quick release funds but did not obligate any of these funds within 6 months. It made its first obligation of $683,561.07 in March 2019, 65 days after the 6-month deadline. However, as of September 2020, Kentucky had obligated all of its funds.

At the time of our review, Division officials had not consulted with the State DOTs but FHWA subsequently informed us that the funds were still needed. According to Agency officials, unused quick release funds remain with the States in case needs arise between semiannual allocations. While we do not dispute that additional needs can arise, FHWA Order 5182.1 does not describe a process for leaving quick release funds in reserve.

**FHWA Does Not Always Document the Required Approvals for Quick Release Fund Allocations**

FHWA Headquarters did not provide evidence of OST’s approval for quick release fund allocations; such documentation is required by the Agency’s ER Quick Release Standard Operating Procedures. We reviewed 26 quick release fund allocations made between fiscal years 2017 and 2019. For 10 of these 26 allocations, totaling $48 million, the Agency did not maintain sufficient evidence of proper approvals. According to FHWA officials, quick release approvals are coordinated between OST and the Operating Administrations through email. The Acting Administrator stated that OST had approved the 10 quick releases, but FHWA officials could not provide the supporting documentation. For example, the Acting Administrator concurred with the Kentucky and Iowa allocations but we did not receive evidence that the Agency had forwarded this concurrence to the Deputy Secretary for approval. As a result, we could not independently verify that FHWA obtained all required approvals for quick release allocations (see table 1 for details).
Table 1. Quick Release Fund Allocations That Lacked Documented Approvals

<table>
<thead>
<tr>
<th>Allocation Date</th>
<th>State/Territory</th>
<th>Event</th>
<th>Amount Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>9/14/2017</td>
<td>Puerto Rico</td>
<td>Hurricanes Irma and Maria in September 2017</td>
<td>$2,500,000</td>
</tr>
<tr>
<td>9/13/2017</td>
<td>Virgin Islands</td>
<td>Hurricanes Irma and Maria in September 2017</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>7/16/2018</td>
<td>Kentucky</td>
<td>Severe storms and flooding in February 2018</td>
<td>$3,000,000</td>
</tr>
<tr>
<td>4/4/2019</td>
<td>Nebraska</td>
<td>Severe storms and flooding in March 2018</td>
<td>$25,000,000</td>
</tr>
<tr>
<td>4/12/2019</td>
<td>Iowa</td>
<td>Severe storms and flooding in March 2019</td>
<td>$9,000,000</td>
</tr>
<tr>
<td>5/3/2019</td>
<td>Missouri</td>
<td>Severe storms and flooding in March 2019</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>5/9/2019</td>
<td>Idaho</td>
<td>Flooding in April 2019</td>
<td>$500,000</td>
</tr>
<tr>
<td>5/30/2019</td>
<td>Vermont</td>
<td>Snow melt, heavy rain, and severe flooding in April 2019</td>
<td>$500,000</td>
</tr>
<tr>
<td>6/4/2019</td>
<td>South Dakota</td>
<td>Heavy snow, rain, and spring runoff in March 2019</td>
<td>$1,500,000</td>
</tr>
<tr>
<td>7/12/2019</td>
<td>Missouri</td>
<td>Severe storms and flooding in April 2019</td>
<td>$2,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td><strong>$48,000,000</strong></td>
</tr>
</tbody>
</table>

Source: OIG analysis

FHWA Has Not Deobligated Almost $2 Million in Unneeded Funds

The Government Accountability Office’s *Standards for Internal Control in the Federal Government* states that transactions should be promptly recorded to maintain their relevance and value to management in controlling operations and making decisions. We found that FHWA’s Texas Division Office has not deobligated $1,958,064 in funds that Texas DOT has not needed for over 2 years.

- In August 2018, Texas DOT obligated $10,067.43 for one site with damages caused by Hurricane Harvey. Per the ER Manual, to be eligible for relief funds, each site should generally have a minimum of $5,000 in eligible repair costs. This requirement helps separate costs eligible for
emergency relief funding from ineligible costs that must be covered by routine maintenance funding. Subsequently, Texas DOT determined that the site had not met the $5,000 requirement. The Texas Division Office could not tell us whether it followed up on these obligations. However, based on our review, the funds remained obligated to these projects for over 33 months.

• In April 2019, Texas DOT obligated $1,947,996 in emergency relief funds to five projects for Hurricane Harvey-related repairs managed by the Harris County Toll Road Authority (Harris County). Harris County did not accept the funds due to FHWA requirements on procurement reimbursements. Entities that receive Federal funds for Federal-aid construction contracts are required to incorporate provisions into their vendor contracts, such as suspension and debarment requirements and safety and nondiscrimination standards. According to FHWA officials, State Division Offices review and update repair project plans every 6 months to determine whether the funds should be deobligated. However, the Texas Division Office could not tell us whether it followed up on the funds obligated to Harris County. As of May 2021, the funds remained obligated.

• In December 2020, Texas DOT advised us that Harris County had also declined $57,379 in obligated funds. State officials said that these funds should not be deobligated but did not explain why. Moreover, FHWA Texas Division representatives informed us that they could not envision a situation in which funds remained obligated after a State or local public agency declined them.

Texas DOT has acknowledged that $1,900,685 in emergency relief funds it has obligated is no longer needed and could be deobligated but has not begun the deobligation process. FHWA advised us that the Texas Division would coordinate with Texas DOT to complete this process, but as of May 2021, all funds remained obligated.

In times of limited resources, unneeded obligations could lead to a backlog of emergency funding requests and affect other States’ ability to recover from disasters. In addition, funds that do not have a basis for continued obligation can result in inaccurate financial reporting.

FHWA’s Emergency Relief Manual Is Outdated

FHWA’s ER Manual—the primary operational guidance for the Divisions, State DOTs, and localities—was last updated in May 2013 and does not reflect all of the current practices in the Highways Program. FHWA officials informed us
Divisions and State DOTs can refer to the Agency’s other policy sources, but we found instances in which these documents do not align. For example, the ER Manual requires States and localities to deallocate unobligated funds at fiscal year-end. However, FHWA Order 5182.1—issued 3 years after the manual’s last update—requires FHWA to monitor monthly unobligated balances and deallocate funds that exceed recipients’ needs. Furthermore, the Order does not state whether it supersedes the manual’s requirements.

Additionally, the ER Quick Release Standard Operating Procedures require FHWA to obtain OST’s approval for allocations of quick release funds and includes steps to post the press releases to announce these allocations on the FHWA and/or DOT’s public websites. However, the ER Manual does not mention these activities.

Finally, FHWA Order 5182.1 states that if quick release funds are not obligated within 6 months of the allocation date, the Office of Infrastructure should ask the State DOT if the funds are still needed. If they are no longer needed, FHWA is to deallocate them. Yet neither the ER Manual nor the ER Quick Release Standard Operating Procedures mention this 6-month requirement.

Inconsistent guidance increases the risk of improper fund management. FHWA acknowledged that both the manual and the standard operating procedures should be updated to be consistent with the Agency’s other guidance.

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A Review of FHWA’s Emergency Relief Payments Found a Low Incidence of Improper Payments in the Highways Program and No Improper Payments in the Roads Program

Despite the gaps in the Agency’s oversight and policies, we found a low incidence of improper payments of funds in both ER programs. Congress has passed several statutes aimed at reducing improper payments in Federal programs. The most recent, the Payment Integrity Information Act of 2019 (PIIA), requires agencies to limit improper payments to less than 10 percent of their total program payments.

We reviewed a statistical sample of 74 Highways Program payments made between February 9, 2018, and March 31, 2020, totaling $112,165,221.48. We

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17 PIIA (Pub. L. 116-117) defines an improper payment as any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements.

18 From a universe of 10,035 payments totaling $735,242,166.
identified seven sample items with errors totaling $114,244.87 (see table 2). These payments were either made in excess of the allowable Federal share or ineligible costs charged to the project. Based on statistical projections, we estimate that $3,516,129.27 or 0.48 percent of Highways payments were made in error, significantly less than the 10 percent limit that PIIA requires. We also found three improper amounts totaling $61,784.84 (see table 3) outside of our statistical sample.

Table 2. Improper Payments in Highways Program Statistical Sample

<table>
<thead>
<tr>
<th>State</th>
<th>Finding Description</th>
<th>Finding Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ohio</td>
<td>Payment in excess of allowable Federal share</td>
<td>$9,008.48</td>
</tr>
<tr>
<td>Ohio</td>
<td>Payment in excess of allowable Federal share</td>
<td>$46,516.52</td>
</tr>
<tr>
<td>Ohio</td>
<td>Payment for equipment rental misdated (June 31, 2018)</td>
<td>$40.43</td>
</tr>
<tr>
<td>Kentucky</td>
<td>Ineligible costs charged to project</td>
<td>$12,652.76</td>
</tr>
<tr>
<td>Kentucky</td>
<td>Ineligible costs were charged to project</td>
<td>$45,820.46</td>
</tr>
<tr>
<td>California</td>
<td>Payment in excess of allowable Federal share</td>
<td>$102.09</td>
</tr>
<tr>
<td>California</td>
<td>Payment in excess of allowable Federal share</td>
<td>$104.13</td>
</tr>
</tbody>
</table>

Source: OIG analysis

$114,244.87

Table 3. Improper Payments Outside of Highways Program Statistical Sample

<table>
<thead>
<tr>
<th>State</th>
<th>Finding Description</th>
<th>Finding Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ohio</td>
<td>Payment in excess of allowable Federal share</td>
<td>$26,195.26</td>
</tr>
<tr>
<td>Kentucky</td>
<td>Ineligible costs were charged to project</td>
<td>$14,336.76</td>
</tr>
<tr>
<td>California</td>
<td>Payment in excess of allowable Federal share</td>
<td>$21,252.82</td>
</tr>
</tbody>
</table>

Source: OIG analysis

$61,784.84

We also tested a sample of payments in the Roads Program, which consists of projects administered by FHWA’s Federal Lands Highway Division Offices and those administered by Federal land management agencies and partners.\(^{19}\) The documentation on projects administered by these agencies and partners is

\(^{19}\) There are seven Federal land management agency partners in our scope—the National Park Service, Forest Service, Fish and Wildlife Service, Bureau of Indian Affairs, US Army Corps of Engineers, Bureau of Reclamation, and the Bureau of Land Management.
outside of FHWA’s internal control; yet the Agency is required to report on the status of the funds it transfers to them. Although we verified that FHWA has a process for reporting the status of funds, we did not audit that process. We limited the scope of our Roads Program testing to projects administered by the Federal Lands Highways Division Offices. Our review of a sample of 67 Federal Lands Highways payments did not identify any improper payments.

Conclusion

FHWA’s emergency relief programs provide billions of dollars in funds to States for repairing the damages to transportation infrastructure caused by major natural disasters. Because of the size of these investments and the speed at which FHWA needs to allocate these funds, adherence to policies and procedures is critical to prevent errors or fraud, waste, and abuse. Until FHWA takes steps to update its policies and procedures and ensure compliance, it faces the risk that the taxpayer investment in Federal emergency relief programs will be mismanaged or misused.

Recommendations

To help improve the accountability of Federal funds and enhance oversight of FHWA’s Emergency Relief Programs, we recommend the Federal Highway Administrator:

1. Direct the Office of Infrastructure to follow the FHWA Emergency Relief (ER) Manual regarding deallocations of unobligated funds.

2. Identify any balance of allocated quick release funds older than 6 months, that will not be obligated through the remainder of the fiscal year and that are no longer needed—including the unobligated quick release amounts described in this report—and withdraw or deallocate as appropriate in accordance with the ER policy. Implementation of this recommendation could put $5.2 million in funds to better use.

3. Update the ER Manual’s quick release procedures to clarify the documentation needed for funding approval and the responsibilities to maintain sufficient evidence of required approvals for quick release requests submitted in accordance with emergency relief policy and program requirements.

4. Instruct the FHWA Texas Division to coordinate with the Texas DOT to deobligate the funds the State no longer needs, as discussed in this
report. Implementation of this recommendation could put $1,958,064 in funds to better use.

5. Update the ER Manual to incorporate the requirements in FHWA Order 5182.1, including the routine review of unobligated balances so that funds can be deallocated when no longer needed.

6. Recover the $176,029.71 in unallowable emergency relief payments identified in this report.

Agency Comments and OIG Response

We provided FHWA with our draft report on October 28, 2021, and received the Agency’s formal response on December 14, 2021, which is included as an appendix to this report. In its response, FHWA concurred with recommendations 3 through 6 as written and provided appropriate planned actions and completion dates for those recommendations. FHWA partially concurred with recommendation 1 and did not concur with recommendation 2. FHWA’s proposed alternative actions satisfy the intent of recommendation 1. We are requesting that the Agency reconsider its response to recommendation 2.

In recommendation 1, we asked FHWA to direct the Office of Infrastructure to follow FHWA’s Emergency Relief (ER) Manual regarding deallocations of unobligated funds. In its response, FHWA partially concurred, acknowledging that unobligated funds are not always deallocated by the end of each fiscal year but that this deallocation is no longer required. According to FHWA, this requirement has been superseded by its Order 5182.1, which requires funds to be deallocated only when no longer needed. However, during our audit, FHWA officials informed us that the ER Manual is the primary guidance for the Divisions, State DOTs, and localities. FHWA has agreed to resolve all discrepancies between the manual and the order and will do so by completing our recommendation 5 to update the manual to incorporate the order’s requirements. This alternative planned action meets the intent of our recommendation, and we consider recommendation 1 resolved but open pending completion of planned actions.

In recommendation 2, we asked FHWA to identify allocated quick release funds older than 6 months that are unobligated and no longer needed and to deallocate them in accordance with its ER policy. This recommendation is consistent with FHWA Order 5182.1 which states that if the quick release funds are not obligated within 6 months of the allocation date the Division Office should consult with the State DOT to determine whether the funds are still required. If the funds are no longer needed, HIPA-10 should withdraw them. So, it is unclear why FHWA does not concur since the recommendation only reiterates
the Order’s requirement. Therefore, we consider recommendation 2 unresolved and request that the Agency reconsider its position.

Later in its response, FHWA incorrectly states that our audit report says FHWA “did not always issue press releases to announce the allocation of funds.” That statement does not exist in our report. Furthermore, in its response, FHWA states that “[t]he OIG interpreted FHWA QR procedures as a mandatory policy to post press releases for every allocation.” To clarify, we do not interpret FHWA’s procedures as a mandatory policy to post press releases.

Finally, FHWA states in its response that it does not agree that there were audit limitations caused by delays in the Agency’s providing its records to us and access to program individuals and databases. However, we stand by our report and descriptions of the constraints we experienced. Of particular note, in our view, having direct read-only access to FHWA’s Fiscal Management Information System (FMIS) would have made records more accessible. More specifically, direct access would have allowed us to independently extract summary level data for allocations, obligations, and disbursements, as well as project agreements and project status reports. That said, we appreciate FHWA’s willingness to work with us to resolve data issues during the audit. We are committed to working collaboratively with FHWA and maintaining open communication regarding any concerns with future data requests.

**Actions Required**

We consider recommendations 1 and 3 through 6 resolved but open pending completion of planned actions. We consider recommendation 2 unresolved. We request the Agency reconsider its position and in accordance with DOT Order 8000.1C, provide us with its revised response within 30 days of the date of this report.
We conducted this performance audit between February 2020 and October 2021, in accordance with generally accepted Government auditing standards as prescribed by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our audit work focused exclusively on FHWA’s two offices that administer ER funds—the Emergency Relief for Federal-Aid Highways (Highways) Program and Emergency Relief for Federally Owned Roads (Roads) Program. To assess FHWA’s management and oversight of ER funds, we reviewed Public Laws 115-123 and 116-20, FHWA’s emergency relief manuals, FHWA Order 5182.1, guidance memoranda, and memoranda from the Office of Management and Budget regarding disaster-related appropriations.

To determine whether DOT’s controls over the distribution of appropriated funds under Public Law 115-123 and Public Law 116-20 were proper, we reviewed all allocation requests and Secretary-approved memoranda for ER allocations that FHWA made during fiscal years 2017, 2018, and 2019, and through March 31 of fiscal year 2020. We reviewed and analyzed deallocations made between November 2017, and January 2020.

**Sampling Disbursements from the Emergency Relief for Federal-Aid Highways Program**

We received a download of records for 10,089 Highways emergency relief grant payments and removed 26 that were offset by refunds. Our Information Technology Specialist independently verified the downloaded data. The final universe was 10,037 records with a total absolute dollar amount of $742,720,137.77. The records were stratified according to Public Law and whether the record was a payment from or a refund to the Government.

For sample size computations, we used an estimated noncompliance rate of 50 percent, a confidence level of 90 percent, and a precision no greater than +/- 10 percent. We allocated sample sizes to each strata as approximately proportional to the total value of emergency relief grants in each strata with a minimum of two grants per strata.

When FHWA reviewed our initial sample selections, the Agency realized that our sample represented batched invoices and in some instances, hundreds of invoices. This large number of invoices required our Statistician to develop a multi-stage sampling approach to make testing manageable. In some instances,
we had to perform three subsamples. The first stage was relief grant disbursements and the second stage was line items within disbursements. Up to two line items were sampled for each disbursement. For both stages, we selected samples based on probability proportional to the size of emergency relief amount’s absolute value. For the first stage, we used a “with replacement” sampling methodology—which is widely used and accepted in the accounting industry and the Government—to select a statistical sample. For the second stage, we used the Sampford method to select a statistical sample of up to 2 line items per disbursement with a total of 132 line items. Disbursements from California and North Carolina were organized in a manner that required third-stage sampling, and we used the Sampford method. The final sample included 149 line items with a total absolute dollar amount of $62,832,820.57 (8.5 percent of the universe’s total absolute dollar amount).

**Sampling Disbursements from Emergency Relief for Federally Owned Roads Program**

The Roads Program consists of two types of projects—those administered by FHWA’s Federal Lands Highway Division Offices and those administered by Federal land management agencies and partners. We initially requested all Road disbursement transactions for fiscal years 2018 and 2019 and through March 31, 2020. However, FHWA could not provide the disbursements administered by Federal land management agencies and partners because they are outside its jurisdiction, even though Agency policy requires these agencies to make the necessary information available to auditors. FHWA later offered to request the data from the agencies but could not be sure if or when we would receive them. As a result, we limited our scope to funds administered by FHWA’s Federal Lands Highway Division Offices.

For projects administered by Federal Lands Highway Division Offices, we received a download of Federal Lands grants (Roads) from the Federal Lands Business Intelligence Data Warehouse system. Because we do not have access to this system, the downloaded data were not independently verified by our Information Technology Specialist. Data-cleansing steps restricted the data to positive dollar amounts within the appropriate fund codes. The final universe was 53,024 grants with a total dollar amount of $86,010,106.27. The grants were stratified by fiscal year with a census strata for 10 grants over $900,000. For sample size computations, we used an estimated noncompliance rate of 50 percent, a confidence level of 90 percent, and a precision no greater than +/- 10 percent. We allocated sample sizes to each strata as approximately proportional to the total value of Federal land relief grants in each strata, with a minimum of two grants per strata. For the non-census strata, we selected samples based on probability proportional to the size of the Federal land grant relief amount’s absolute value.
We then used a “with replacement” sampling methodology to select a statistical sample of 69 contracts. However, because of this methodology, 2 contracts were selected twice, thus reducing our sample size to 67. Our 67 sample contracts represented a total value of $28,156,471.32 or 32.7 percent of the universe value.

Allocations of Quick Release Funds

We obtained a list of hurricane-related quick release fund allocations for fiscal years 2017 through 2019. We then requested supporting documentation for the awards of 16 hurricane-related and 10 non-hurricane-related quick release fund allocations. We interviewed representatives from the ER programs, OST’s Budget Office, and OST’s Office of General Counsel.

Allocations and Deallocations

We reviewed FHWA’s policies and procedures for receiving, reviewing, and approving ER fund requests from States, territories, and Federal land agencies. We reviewed the Agency’s processes for allocating and obligating expenditures, and tracking unused funds that could be applied to other emergencies. We reviewed whether FHWA could timely respond to emergencies by issuing quick release funds, and how it determined project eligibility and approval. We virtually met with officials responsible for receiving funds to understand the justifications for how and why the funds were allocated and distributed.

Audit Limitations

The Government Accountability Office’s (GAO) Government Auditing Standards requires that we disclose constraints on our audit work. During this audit, we encountered some constraints caused by delays in receipt of records and limitations early on in directly accessing program individuals. At the start of the audit, FHWA made the determination that in response to our data requests it would pull data for us rather than provide the direct read-only access to the Agency’s Fiscal Management Information System (FMIS) that we requested. While the decision to pull data for us was in line with recent DOT policy regarding how the Department responds to requests for direct access to information systems, it was contrary to DOT’s past practices and added time to our data collection and analysis efforts beyond what we had anticipated.

Also at the start of the audit, and as required under FHWA’s standard audit engagement procedures, we were instructed to work through the audit liaison

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21 According to Government Auditing Standards, auditors should describe the scope of the work performed and any limitations, including issues that would be relevant to likely users, so that report users can reasonably interpret the findings, conclusions, and recommendations in the report without being misled; auditors should also report any significant constraints imposed on the audit approach by information limitations or scope impairments, including denials of, or excessive delays in, access to certain records or individuals.
rather than interact directly with FHWA program officials. This process also caused delays in our receipt of information. After we raised concerns, however, FHWA officials stated that to help expedite the audit process, the Agency revised its procedures so that we could have direct interaction with program staff.

Furthermore, our initial data requests included some due dates that the Agency said could not be met and we worked with program officials to modify those due dates. However, the Agency repeatedly requested extensions. After we expressed our concerns, FHWA officials stated that some of our data requests required thousands of documents from multiple locations, and at times, needed clarification. We acknowledge this point.

While we experienced these constraints, we are encouraged by senior FHWA officials’ commitment to more collaboration and communication in the future. We hope that our experience on this audit will inform future data requests and more efficient dataset handling.
Exhibit B. Organizations Visited or Contacted

Department of Transportation

Office of the Secretary of Transportation, Washington, DC
OST Office of Financial Management, Washington, DC
OST Budget Office, Washington, DC
OST Office of General Counsel, Washington, DC

Federal Highway Administration, Washington, DC
Office of the Chief Counsel, Washington, DC
Office of Infrastructure, Washington, DC
Office of Federal Lands Highway

Federal Highways Administration Division Offices
Alabama Division Office
Alaska Division Office
Arkansas Division Office
California Division Office
Idaho Division Office
Kentucky Division Office
Louisiana Division Office
Michigan Division Office
Missouri Division Office
Montana Division Office
Nebraska Division Office
New Hampshire Division Office
New York Division Office
North Carolina Division Office
Ohio Division Office
Oregon Division Office
Pennsylvania Division Office
Puerto Rico Division Office
South Dakota Division Office
Texas Division Office
Vermont Division Office
West Virginia Division Office
Wisconsin Division Office

Federal Highway Administration Federal Lands Highway Division Offices
Federal Highway Administration Eastern Region Federal Lands
Federal Highway Administration Western Region Federal Lands
Federal Highway Administration Central Region Federal Lands

Federal Transit Administration, Washington DC
Office of Transit Programs
Office of Budget and Policy

Other Organizations

State Departments of Transportation
Alabama Department of Transportation
Alaska Department of Transportation
Arizona Department of Transportation
Arkansas Department of Transportation
California Department of Transportation
Florida Department of Transportation
Idaho Transportation Department
Kentucky Transportation Cabinet
Louisiana Department of Transportation and Development
Michigan Department of Transportation
Mississippi Department of Transportation
Missouri Department of Transportation
Montana Department of Transportation
Nebraska Department of Transportation
New Hampshire Department of Transportation
New York State Department of Transportation
North Carolina Department of Transportation
Ohio Department of Transportation
Oregon Department of Transportation
Pennsylvania Department of Transportation
Puerto Rico Department of Transportation and Public Works
South Carolina Department of Transportation
South Dakota Department of Transportation
Texas Department of Transportation
Vermont Agency of Transportation
Washington Department of Transportation
West Virginia Department of Transportation
Wisconsin Department of Transportation
### Exhibit C. List of Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>DOT</td>
<td>Department of Transportation</td>
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<tr>
<td>ER</td>
<td>Emergency relief</td>
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<td>ER Manual</td>
<td>Emergency Relief Manual</td>
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<td>FHWA</td>
<td>Federal Highway Administration</td>
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<tr>
<td>FMIS</td>
<td>Fiscal Management Information System</td>
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<td>Highways</td>
<td>Emergency Relief for Federal-Aid Highways Office</td>
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<tr>
<td>OIG</td>
<td>Office of Inspector General</td>
</tr>
<tr>
<td>OST</td>
<td>Office of the Secretary of Transportation</td>
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<tr>
<td>PIIA</td>
<td>Payment Integrity Information Act of 2019</td>
</tr>
<tr>
<td>Roads</td>
<td>Emergency Relief for Federally Owned Roads Office</td>
</tr>
<tr>
<td>State DOT</td>
<td>State Department of Transportation</td>
</tr>
</tbody>
</table>
Exhibit D. Major Contributors to This Report

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SENIOR AUDITOR

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SENIOR AUDITOR

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SENIOR ANALYST

AMY BERKS  
DEPUTY CHIEF COUNSEL

GEORGE ZIPF  
SUPERVISORY MATHEMATICAL STATISTICIAN

WILLIAM SAVAGE  
IT SPECIALIST

SUSAN NEILL  
WRITER-EDITOR
The Federal Highway Administration (FHWA) is dedicated to ensuring that the Emergency Relief (ER) Program has effective internal controls to ensure that laws and regulations are followed, and that the program objectives are accomplished.

In its delivery of the ER Program, FHWA works with State and local transportation agencies, as well as Federal Land Management Agencies (FLMA), to assess damages caused by natural disasters and catastrophic failures, and to provide funding to restore and repair eligible Federal-aid and Federal lands transportation facilities. The applicability of the ER Program to a natural disaster is based on the extent and intensity of the event. The FHWA is currently providing funding to, and monitoring for, over 420 ER events. These events range from widespread disasters, such as Hurricane Irma/Maria in 2017 to isolated catastrophic failures, such as the destruction of a pedestrian bridge in the District of Columbia in 2021. From fiscal year (FY) 2017 to FY 2021, FHWA allocated $4.831 billion of ER funding for projects to repair and restore damaged infrastructure.

The Office of Inspector General (OIG) report acknowledges that OIG’s review of the ER program found a low incidence of improper payments. However, the report does not mention the significant actions FHWA has taken or has underway to improve its administration of ER funds. Since 2016, FHWA has completed several ER Program enhancements and process improvements and has several efforts underway to include the following:
Strengthened internal controls on the allocation request process to systematically prevent the over-allocation of funds;
- Issued the 2016 FHWA Order 5182.1 titled ER Program Responsibilities to identify ER procedures more clearly for program administration;
- Developed a new electronic system, ER Data Portal, that includes a controlled workflow process to request and track needs, allocations, and obligations\(^1\);
- Identified and deallocated $363 million of ER funds that are no longer needed for events in the time-period covered by this audit, making those funds available for more immediate needs;
- Established a new ER team within the Office of Infrastructure (HIF) to provide dedicated and more effective and efficient program management;
- Issued program guidance on emergency versus permanent repair work (April 2021)\(^2\), event cost estimates (April 2021)\(^3\), and incorporating resilience improvements in ER work (October 2019)\(^4\);
- Updated the quick release (QR) standard operating procedures (SOP); and
- Developed a new online dashboard reporting system to quickly and easily track event recovery status and funds management.

The FHWA offers the following clarifications to improve the accuracy, completeness, and currency of the OIG draft report:

**Funds Management:** The audit report conveys the message that “FHWA’s outdated policies hinder its ability to oversee emergency relief funds.” Specifically, OIG states that “FHWA does not always deallocate funds that have not been obligated by the end of the fiscal year, as its Highways [sic] ER Manual requires.” The FHWA acknowledges that unobligated funds are not deallocated by end of each FY, but disagrees that this is still a requirement. The FHWA deallocates unobligated funds when those funds are no longer needed, consistent with the 2016 FHWA Order 5182.1 titled ER Program Responsibilities (which is more current than the 2013 ER Manual cited by OIG). In the event of a conflict between the formally-issued Order and the older ER Manual, the Order is controlling. The revised ER Manual will incorporate all guidance currently presented in the ER Order. The Order makes no mention of automatically deallocating unobligated funds at the end of each FY. Such an action would not be based on current needs and could unnecessarily delay advancement of projects. The FHWA practice of reviewing unobligated balances monthly and deallocating funds that exceed recipients’

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\(^1\) The ER Data Portal provides recipients with user input forms and includes a controlled workflow process. The portal links together the various pieces of ER Program and financial information, including event declaration and approval information, total federally-eligible event cost, previous allocated balance, obligated balance, remaining needs, allocation and deallocation requests for tracking the overall status, event recovery status, and funds management. The dashboard utilizes numerous datasets to create interactive visualizations and dashboards to address needs as they arise.


needs, as specified in the ER Order, avoids such delays and ensures that FHWA’s ER funds management practices meet current needs.

**QR Allocations:** The audit report states that FHWA allocated funds using the QR method without proper approvals and did not always issue press releases to announce the allocation of funds. The FHWA disagrees with this finding. The OIG noted two instances from September 2017 where FHWA did not have written documentation from the Office of the Secretary (OST) confirming approval of the QR request which had been conveyed to OST by the Office of the Administrator (HOA). In contrast, the audit report lists ten QRs that lacked documentation of approval. Neither the ER Manual nor FHWA Order 5182.1 require written approval from OST for QR allocations. Nevertheless, we have evidence for each subject QR that the Administrator or Deputy Administrator informed HIF that she had received OST’s approval for the allocation. Further, in each instance where FHWA recommended a QR allocation, the recommendation was based on documented eligibility of the event and a demonstrated need by the applicant. The QR method used for allocation is controlled through a series of procedural steps that are documented in SOPs with which FHWA has demonstrated compliance.

With respect to the press release finding, press releases of QR allocations are a media opportunity at the discretion of FHWA and OST. There is no requirement for their preparation or issuance. The FHWA does comply fully with a statutory requirement to provide Congressional notification of the allocation via the Grants Notification System. The OIG interpreted FHWA QR procedures as a mandatory policy to post press releases for every allocation, which is not the case.

**Audit Limitations:** In response to OIG’s discussion of perceived audit constraints, FHWA does not agree that there were audit limitations caused by delays in providing records or access to program individuals and databases. The FHWA satisfied OIG data requests, even though the audit was conducted during the start of the COVID-19 pandemic. The FHWA provided information despite the volume, complexity, breadth, and occasional ambiguity of OIG’s requests. The FHWA balanced the audit work and its significant demands with the Agency’s mission and critical work, allocating limited resources, including thousands of hours of staff time, to respond to OIG as expeditiously as possible. Program staff and FHWA officials were readily available to assist the OIG audit team with their work and did so in a professional and responsive manner.

In many instances, the OIG audit requests required coordination among several Headquarters offices, division offices, State departments of transportation, and OST. Notably, the audit included voluminous data sampling requests and data calls, encompassing all 52 Federal-aid division offices and the 3 Federal Lands Highway division offices. Indirect access to the Fiscal Management Information System (FMIS) did not result in a scope limitation. The FHWA informed OIG that after consultations within the Department, OIG would receive information from FMIS, without read-only access through a link to OIG’s computer network, and that the Department and FHWA were committed to providing OIG with all the data it required for the audit. To that end, FHWA provided OIG with all FMIS data and reports requested by OIG. In addition,
the FHWA FMIS staff provided significant audit support to the OIG team and was responsive to extensive audit questions and inquiries.

Based on our review of OIG’s draft report, FHWA concurs with recommendations 3, 4, 5, and 6, as written. We plan to complete actions to implement recommendations 3 and 5 by December 31, 2022; and recommendations 4 and 6 by June 30, 2022.

We partially concur with recommendation 1, directing FHWA to follow the ER Manual regarding deallocation of unobligated funds. As noted, the 2013 ER Manual required deallocation of any unobligated funds at the end of the FY. This requirement has been superseded by FHWA Order 5182.1 which requires funds to be deallocated only when no longer needed. In the event of a conflict between the formally-issued Order and the older ER Manual, the Order is controlling. For this reason, FHWA intends to first complete the actions to close recommendation 5, to update the Manual to incorporate the requirements of the Order, before directing the Agency to follow the ER Manual. The FHWA plans to implement this alternate action by June 30, 2022.

The FHWA does not concur with recommendation 2 to “identify any balance of allocated QR funds older than 6 months, and that will not be obligated through the remainder of the fiscal year and that are no longer needed—including the unobligated quick release amounts described in this report—and withdraw or deallocate as appropriate in accordance with the ER policy.” Instead, FHWA will continue to follow the FHWA Order 5182.1 provision on identifying ER funds that are no longer needed and can be deallocated. The FHWA does not currently nor does it intend to track funds allocated via QR separately from other ER funds, and thus does not concur with the recommendation. The QR SOPs will be updated to include similar direction to FHWA Order 5182.1 regarding regular review of ER funds, and deallocation of funds no longer needed for an event.

We appreciate the opportunity to review the OIG draft report. Please contact Hari Kalla, Associate Administrator for Infrastructure, at 202-366-0370 with any questions.
OUR MISSION
OIG enhances DOT's programs and operations by conducting objective investigations and audits on behalf of the American public.