

**PART IV – FEDERAL AID PROGRAMS ADMINISTERED
BY FEDERAL HIGHWAY ADMINISTRATION (FHWA)**

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PARTIV - CHAPTER 1: OVERVIEW OF MAJOR PROGRAMS

A. INTRODUCTION:

On July 6, 2012, President Obama signed into law P.L. 112-141, the Moving Ahead for Progress in the 21st Century Act (MAP-21). Funding surface transportation programs at over \$105 billion for federal fiscal years (FY) 2013 and 2014, MAP-21 is the first long-term highway authorization enacted since 2005. MAP-21 represents a milestone for the U.S. economy – it provides needed funds and, more importantly, it transforms the policy and programmatic framework for investments to guide the growth and development of the country's vital transportation infrastructure.

MAP-21 creates a streamlined, performance-based, and multimodal program to address the many challenges facing the U.S. transportation system. These challenges include improving safety, maintaining infrastructure condition, reducing traffic congestion, improving efficiency of the system and freight movement, protecting the environment, and reducing delays in project delivery.

B. PROGRAM RESTRUCTURING

MAP-21 restructures core highway formula programs. Activities carried out under some existing formula programs – the National Highway System Program, the Interstate Maintenance Program, the Highway Bridge Program, and the Appalachian Development Highway System Program – are incorporated into the following new core formula program structure:

- National Highway Performance Program (NHPP)
- Surface Transportation Program (STP)
- Congestion Mitigation and Air Quality Improvement Program (CMAQ)
- Highway Safety Improvement Program (HSIP)
- Railway-Highway Crossings (set-aside from HSIP)
- Metropolitan Planning

It creates two new formula programs:

- Construction of Ferry Boats and Ferry Terminal Facilities – replaces a similarly purposed discretionary program.
- Transportation Alternatives (TALT) – a new program, with funding derived from the NHPP, STP, HSIP, CMAQ and Metropolitan Planning programs, encompassing most activities funded under the Transportation Enhancements, Recreational Trails, and Safe Routes to School programs under SAFETEA-LU.

MAP-21 creates a new discretionary program – Tribal High Priority Projects (THPP) – and continues the following current discretionary programs:

- Projects of National and Regional Significance (PNRS)
- On-the-Job Training Supportive Services
- Disadvantaged Business Enterprise (DBE) Supportive Services
- Highway Use Tax Evasion (Intergovernmental enforcement projects)
- Work Zone Safety Grants

It also eliminates most current discretionary programs, but many of the eligibilities are covered in other programs:

- Delta Region Transportation Development
- Ferry Boats Discretionary
- Highways for LIFE Demonstration Program
- Innovative Bridge Research and Deployment
- Interstate Maintenance Discretionary
- National Historic Covered Bridge Preservation
- National Scenic Byways
- Public Lands Highway Discretionary
- Railway-Highway Crossing Hazard Elimination in High Speed Rail Corridors
- Transportation, Community, and System Preservation
- Truck Parking Pilot Program
- Value Pricing Pilot Program (no additional funding, but authority remains)

C. NATIONAL HIGHWAY PERFORMANCE PROGRAM (NHPP)

1. WPA FUND CODES

- **NHPP** – National Highway Performance Program consolidated program for Interstate Maintenance, Bridge Replacement, and National Highway System MAP-21;
 - **ACNP** – Advanced Construction fund type version of NHPP;
- **NHRE** - National Highway Performance Program – resurfacing;
 - **ACNR** – Advanced Construction fund type version of NHRE;
- **NHBR** – NHPP for Bridges (including inspection) on the new Enhanced NHS;
 - **ACBR** - Advanced Construction fund type version of NHBR

2. PROGRAM PURPOSE

The NHPP provides support for the condition and performance of the National Highway System (NHS), for the construction of new facilities on the NHS, and to ensure that investments of Federal-aid funds in highway construction are directed to support progress toward the achievement of performance targets established in a State's asset management plan for the NHS.

3. STATUTORY CITATION(S):

MAP-21 §1106; 23 USC 119

4. FUNDING FEATURES

Funded by contract authority from the Highway Account of the Highway Trust Fund. Funds are subject to the overall Federal-aid obligation limitation.

MAP-21 has a new approach to core formula program funding, authorizing a lump sum total instead of individual authorizations for each program. Once each State's share of the total is calculated, it is divided up by program within the State.

a. Set-asides

From the State's NHPP apportionment, the following sums are to be set aside:

- A proportionate share of funds for the State's Transportation Alternatives program. 2% for State Planning and Research (SPR). [§52005; 23 USC 505]

b. Federal share

Determined in accordance with 23 USC 120, including a special rate for certain safety projects and a new provision for increased Federal share for projects incorporating Innovative Project Delivery. The Federal share for NHPP projects for a State that has not implemented an asset management plan within the established timeframe is limited to 65%. Other exceptions to 23 USC 120 are provided for certain freight projects, workforce development, training, and education activities

The Federal share is generally 80 percent, subject to the sliding scale adjustment, which is a 1.93% additive for Florida, for a total federal share of 81.93% (except that projects on the Interstate are not eligible for the sliding scale adjustment in Florida). When the funds are used for Interstate projects to add High Occupancy Vehicle (HOV) or auxiliary lanes, but not other thru lanes, the Federal share may be 90 percent.

Although the nominal federal share is stated above, Florida has elected to utilize toll credits to “soft match” these federal funds in lieu of matching with state funds. This, in essence, allows the Department to increase the federal share to 100% with no additional non-federal funds required. See the Soft Match section in this chapter for further information on use of toll credits for the non-federal share.

c. Increased federal share for “Prioritization of projects to improve freight movement”

Authorizes FDOT to allow a maximum federal share of 95% for an interstate system project (or of 90% for a non-interstate system project) if the project makes a demonstrable improvement in the efficiency of freight movement and is identified in a State freight plan (as described in section 1118 of MAP-21). [§1116]

For projects that are identified as meeting the above criteria, the item group identifier should be programmed as **FRGT** to trigger the higher percentage calculation in the background for the computation of soft-match that will be utilized on the project.

d. Innovative Program Delivery

Add Item Group Identifier of **IVPD** for an increased federal share of an additional +5% for project(s) that meet the following criteria. Additionally, FHWA may require FDOT to transfer funds to another Federal Appropriation Category (FAC) such as M004 for tracking project that qualify:

Federal Share – Section 120(c) of title 23, United States Code, is amended by adding at the end the following:

(3) INNOVATIVE PROJECT DELIVERY-

`(A) IN GENERAL- Except as provided in subparagraph (C), the Federal share payable on account of a project, program, or activity carried out with funds apportioned under paragraph (1), (2), or (5) of section 104(b) may, at the discretion of the State, be **up to 100 percent** for any such project, program, or activity that the USDOT Secretary determines--

`(i) contains innovative project delivery methods that improve work zone safety for motorists or workers and the quality of the facility;

`(ii) contains innovative technologies, manufacturing processes, financing, or contracting methods that improve the quality of, extend the service life of, or decrease the long-term costs of maintaining highways and bridges;

- `(iii) accelerates project delivery while complying with other applicable Federal laws (including regulations) and not causing any significant adverse environmental impact; or
 - `(iv) reduces congestion related to highway construction.
- `(B) EXAMPLES- Projects, programs, and activities described in subparagraph (A) may include the use of--
- `(i) prefabricated bridge elements and systems and other technologies to reduce bridge construction time;
 - `(ii) innovative construction equipment, materials, or techniques, including the use of in-place recycling technology and digital 3-dimensional modeling technologies;
 - `(iii) innovative contracting methods, including the design-build and the construction manager-general contractor contracting methods;
 - `(iv) intelligent compaction equipment; or
 - `(v) contractual provisions that offer a contractor an incentive payment for early completion of the project, program, or activity, subject to the condition that the incentives are accounted for in the financial plan of the project, when applicable.
- `(C) LIMITATIONS-
- `(i) IN GENERAL- In each federal fiscal year, a State may use the authority under subparagraph (A) for up to 10 percent of the combined apportionments of the State under paragraphs (1), (2), and (5) of section 104(b).
 - `(ii) FEDERAL SHARE INCREASE- The Federal share payable on account of a project, program, or activity described in subparagraph (A) may be increased by up to **5 percent** of the total project cost.'

5. ELIGIBLE ACTIVITIES

NHPP projects must be on an eligible facility and support progress toward achievement of national performance goals for improving infrastructure condition, safety, mobility, or freight movement on the NHS, and be consistent with Metropolitan and Statewide planning requirements. Eligible activities include:

- Construction, reconstruction, resurfacing, restoration, rehabilitation, preservation, or operational improvements of NHS segments.
- Construction, replacement (including replacement with fill material), rehabilitation, preservation, and protection (including scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) of NHS bridges and tunnels.
- Bridge and tunnel inspection and evaluation on the NHS and inspection and evaluation of other NHS highway infrastructure assets.
- Training of bridge and tunnel inspectors.
- Construction, rehabilitation, or replacement of existing ferry boats and facilities, including approaches that connect road segments of the NHS.
- Construction, reconstruction, resurfacing, restoration, rehabilitation, and preservation of, and operational improvements for, a Federal-aid highway not on the NHS, and construction of a transit project eligible for assistance under chapter 53 of title 49, if the project is in the same corridor and in proximity to a fully access-controlled NHS route, if the improvement is more cost-effective (as determined by a benefit-cost analysis) than an NHS improvement, and will reduce delays or produce travel time savings on the NHS route and improve regional traffic flow.
- Bicycle transportation and pedestrian walkways.
- Highway safety improvements on the NHS.
- Capital and operating costs for traffic and traveler information, monitoring, management, and control facilities and programs.

- Development and implementation of a State Asset Management Plan for the NHS including data collection, maintenance and integration, software costs, and equipment costs.
- Infrastructure-based ITS capital improvements.
- Environmental restoration and pollution abatement.
- Control of noxious weeds and establishment of native species.
- Environmental mitigation related to NHPP projects.
- Construction of publicly owned intracity or intercity bus terminals servicing the NHS.

Workforce development, training, and education activities are also an eligible use of NHPP funds.

[§1109; 23 USC 504(e)]

6. LOCATION OF PROJECTS

NHPP funds may only be used for projects on or associated with the NHS as described above under "Eligible activities." An exception is provided under certain circumstances for non-NHS highway or transit projects in an NHS corridor.

7. PROGRAM FEATURES

Enhanced National Highway System

Under MAP-21, the enhanced NHS is composed of approximately 220,000 miles of rural and urban roads serving major population centers, international border crossings, intermodal transportation facilities, and major travel destinations. It includes:

- The Interstate System.
- All principal arterials (including those not previously designated as part of the NHS) and border crossings on those routes.
- Intermodal connectors -- highways that provide motor vehicle access between the NHS and major intermodal transportation facilities.
- STRAHNET -- the network of highways important to U.S. strategic defense.
- STRAHNET connectors to major military installations.

[§1104; 23 USC 103]

a. Asset management

Within 18 months of enactment, the USDOT Secretary is directed to publish a rulemaking establishing the process for States to use in developing a risk-based, performance-based asset management plan for preserving and improving the condition of the NHS. States are encouraged to include all infrastructure assets within the right-of-way corridor. The plan must include at least the following:

- Summary list, including condition, of the State's NHS pavements and bridges
- Asset management objectives and measures
- Performance gap identification
- Lifecycle cost and risk management analysis
- Financial plan
- Investment strategies

Each State's process must be reviewed and recertified at least every 4 years. If certification is denied, the State has 90 days to cure deficiencies. If a State has not developed and implemented an asset management plan consistent with requirements by the beginning of the 2nd federal fiscal year after the establishment of the process, the Federal share for NHPP projects in that federal fiscal year is reduced to 65%.

b. Minimum pavement and bridge conditions

- Interstate conditions --The USDOT Secretary will establish a minimum level of condition for Interstate pavements, which may vary by geographic region. If, during two consecutive reporting periods, Interstate pavement conditions in a State fall below the minimum set by the USDOT Secretary, the State must, at a minimum, devote the following resources to improve Interstate pavement conditions during the following federal fiscal year (and each year thereafter if the condition remains below the minimum):
 - NHPP funds in an amount equal to the State's FY 2009 Interstate Maintenance (IM) apportionment, to increase by 2% per year for each year after FY 2013.
 - Funds transferred from the STP (not from suballocated amounts) to the NHPP in an amount equal to 10% of the amount of the State's FY 2009 IM apportionment.
- Bridge conditions – MAP-21 establishes a minimum standard for NHS bridge conditions. If more than 10% of the total deck area of NHS bridges in a State is on structurally deficient bridges for three consecutive years, the State must devote NHPP funds in an amount equal to 50% of the State's FY 2009 Highway Bridge Program apportionment to improve bridge conditions during the following federal fiscal year (and each year thereafter if the condition remains below the minimum).

c. Bridge and tunnel inspection standards

If a State is in noncompliance with bridge and tunnel inspection standards established by the USDOT Secretary, a portion of NHPP funds must be used to correct the problem. (See "Bridge and Tunnel Inspection" fact sheet). [§1111; 23 USC 144(h)(5)]

d. Performance

Within 18 months of enactment, the USDOT Secretary, in consultation with States, MPOs, and other stakeholders, is directed to publish a rulemaking establishing:

- Minimum standards for States to use in developing and operating bridge and pavement management systems.
- Performance measures for Interstate and NHS pavement condition, NHS bridge condition, and Interstate and NHS performance.
- Minimum conditions for Interstate pavements – may vary geographically.
- Data elements necessary to collect and maintain standardized data to carry out a performance-based approach.

[§1203; 23 USC 150(c)]

States are required to establish targets for these measures within 1 year of the final rule on national performance measures. [§1203; 23 USC 150(d)]

- States will report to DOT on progress in achieving targets within 4 years of enactment and then every 2 years [§1203; 23 USC 150(e)] and MPOs will report to DOT on progress in their Metropolitan Transportation Plan (4 or 5 year frequency). [§1201; 23 USC 134(i)]
- If a State does not meet or make significant progress toward targets for 2 consecutive reporting periods, the State must document in its next report the actions it will take to achieve the targets. [§1106; 23 USC 119(e)(7)]

e. Transition period

Until a State has in effect an approved asset management plan and has established performance targets, but no later than 18 months after the USDOT Secretary has promulgated the rulemaking for the performance measures, the USDOT Secretary will approve obligations of funds in that State for the NHPP that otherwise meet the NHPP eligibility criteria. This transition period may be extended if the USDOT Secretary determines that the State has made a good faith effort to establish an asset management plan and performance targets.

[§1106(b)]

8. SURFACE TRANSPORTATION PROGRAM (STP)

a. Program purpose

The Surface Transportation Program (STP) provides flexible funding that may be used by States and localities for projects to preserve and improve the conditions and performance on any Federal-aid highway, bridge and tunnel projects on any public road, pedestrian and bicycle infrastructure, and transit capital projects, including intercity bus terminals.

b. Statutory citation(s)

MAP-21 §1108; 23 USC 133

c. Funding features

Funded by contract authority from the Highway Account of the Highway Trust Fund. Funds are subject to the overall Federal-aid obligation limitation.

MAP-21 has a new approach to core formula program funding, authorizing a lump sum total instead of individual authorizations for each program. Once each State's share of the total is calculated, it is divided up by program within the State.

1) Set-asides

From the State's STP apportionment, the following sums are to be set aside:

- A proportionate share of funds for the State's Transportation Alternatives (TA) program. 2% for State Planning and Research (SPR). [§52005; 23 USC 505]
- For off-system bridges (BRTZ), an amount not less than 15% of the State's FY 2009 Highway Bridge Program apportionment (may not be taken from amounts suballocated based on population).

The set-aside for Transportation Enhancements (old SE funds) is eliminated.

2) Suballocation

50% of a State's STP apportionment (after Transportation Alternatives and SPR set-asides) is to be obligated in the following areas in proportion to their relative shares of the State's population

- **SU or ACSU and TALU or ACTU (for Transportation Alternatives)**- Urbanized areas with population greater than 200,000 – This portion is to be divided among those areas based on their relative share of population, unless the USDOT Secretary approves a joint request from the State and relevant MPO(s) to use other factors.
- **SL or ACSL and TALL or ACTL (for Transportation Alternatives)** - Areas with population greater than 5,000 but no more than 200,000 – Projects in these areas are to be identified for funding by the State in consultation with regional planning organizations, if any.
- **SN or ACSN and TALN or ACTN (for Transportation Alternatives)**- Areas with population of 5,000 or less

The following Distribution Areas have been established for sub-allocation of **SU** and geographically allocated Transportation Alternatives funding for urban areas over 200K as WPA fund **TALU or ACTU**:

Distribution Area	Transportation Management Area
X01	CAPE CORAL
X02	SARASOTA - BRADENTON
X03	JACKSONVILLE
X04	PENSACOLA
X05	FT.LAUD. - HOLLYWOOD - POMPANO
X06	W. PALM - BOCA RATON - DELRAY
X07	DAYTONA BEACH - PORT ORANGE
X08	MELBOURNE - PALM BAY
X09	ORLANDO
X10	MIAMI - HIALEAH
X11	TAMPA - ST. PETE.
X12	BONITA SPRINGS - NAPLES
X13	TALLAHASSEE
X14	PORT ST. LUCIE
X15	LAKELAND
X16	WINTER HAVEN
X17	KISSIMMEE

The remaining 50% may be used in any area of the State.

d. Eligible activities

STP eligibilities are continued, with some additions and modifications. Eligibilities are described below, with changes emphasized:

- Construction, reconstruction, rehabilitation, resurfacing, restoration, preservation, or operational improvements for highways, including designated routes of the Appalachian Development Highway System (ADHS) and local access roads under 40 USC 14501.
- Replacement, rehabilitation, preservation, protection, and anti-icing/deicing for bridges and tunnels on any public road, including construction or reconstruction necessary to accommodate other modes.
- Construction of new bridges and tunnels on a Federal-aid highway.
- Inspection and evaluation of bridges, tunnels and other highway assets as well as training for bridge and tunnel inspectors.
- Capital costs for transit projects eligible for assistance under chapter 53 of title 49, including vehicles and facilities used to provide intercity passenger bus service.
- Carpool projects, fringe and corridor parking facilities and programs, including electric and natural gas vehicle charging infrastructure, bicycle transportation and pedestrian walkways, and ADA sidewalk modification.
- Highway and transit safety infrastructure improvements and programs, installation of safety barriers and nets on bridges, hazard eliminations, mitigation of hazards caused by wildlife, railway-highway grade crossings.
- Highway and transit research, development, technology transfer.
- Capital and operating costs for traffic monitoring, management and control facilities and programs, including advanced truck stop electrification.
- Surface transportation planning.
- Transportation alternatives --newly defined, includes most transportation enhancement eligibilities. [See separate "Transportation Alternatives" fact sheet]
- Transportation control measures.
- Development and establishment of management systems.
- Environmental mitigation efforts (as under National Highway Performance Program).
- Intersections with high accident rates or levels of congestion.
- Infrastructure-based ITS capital improvements.
- Environmental restoration and pollution abatement.
- Control of noxious weeds and establishment of native species.
- Guidance from FHWA, Florida Division, Engineering and Operations Director related to Landscaping:
 - If you build a Transportation Alternatives eligible project, for example a sidewalk or bike trail, and landscaping is part of that project - it's eligible.
 - If landscaping is a separate project to enhance a roadway segment not built with TAP then it is not eligible.
 - Landscaping for an existing sidewalk or trail built with TE or other funds would not be eligible for TAP funding.
- Congestion pricing projects and strategies, including electric toll collection and travel demand management strategies and programs.
- Recreational trails projects.
- Construction of ferry boats and terminals.
- Border infrastructure projects.
- Truck parking facilities.
- Development and implementation of State asset management plan for the NHS, and similar activities related to the development and implementation of a performance based management program for other public roads.
- Surface transportation infrastructure modifications within port terminal boundaries, only if necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port.

- Construction and operational improvements for a minor collector in the same corridor and in proximity to an NHS route if the improvement is more cost-effective (as determined by a benefit-cost analysis) than an NHS improvement and will enhance NHS level of service and regional traffic flow.

Workforce development, training, and education activities are also an eligible use of STP funds.

[§1109; 23 USC 504(e)]

e. Location of Projects

In general, STP projects may not be on local or rural minor collectors. However, there are a number of exceptions to this requirement. A State may use up to 15% of its rural suballocation (SN) on minor collectors. Other exceptions include: ADHS local access roads, bridge and tunnel replacement and rehabilitation (not new construction), bridge and tunnel inspection, carpool projects, fringe/corridor parking facilities, bike/pedestrian walkways, safety infrastructure, Transportation Alternatives, recreational trails, port terminal modifications, and minor collectors in NHS corridors.

f. Program features

1) Off-system bridges - WPA Fund BRTZ

- States are required to obligate a portion of funds (not from suballocated amounts) for bridges not on Federal-aid highways (off-system bridges). The amount is to be not less than 15% of the State's FY 2009 Bridge Program apportionment. The USDOT Secretary, after consultation with State and local officials, may reduce a State's set-aside requirement if the State has insufficient off-system bridge needs.
- Credit for off-system bridges -- For projects to replace or rehabilitate deficient off-system bridges funded wholly by State/local sources, any amounts spent post-enactment that are in excess of 20% of project costs may be credited to the non-Federal share of eligible bridge projects in the State.

2) Rural minor collectors

Special rule allows States to use up to 15% of funds suballocated for areas with a population of 5,000 or less (**SN**) on rural minor collectors. The USDOT Secretary may suspend permission if the State is using the authority excessively.

3) Bridge and tunnel inspection standards

If a State is in noncompliance with bridge/tunnel inspection standards established by the USDOT Secretary, a portion of STP funds must be used to correct the problem. [§1111; 23 USC 144(h)(5)]

4) Performance

The STP supports national performance goals, but there are no measures tied specifically to this program.

g. Federal Share

The Federal share is generally 80 percent, subject to the sliding scale adjustment, which is a 1.93% additive for Florida, for a total federal share of 81.93% (except that the sliding scale is not available if these funds are used on the Interstate). When the funds are used for Interstate projects to add high occupancy vehicle or auxiliary lanes, but not other lanes, the Federal share may be 90 percent.

Although the nominal federal share is stated above, Florida has elected to utilize toll credits to “soft match” these federal funds in lieu of matching with state funds. This, in essence, allows the Department to increase the federal share to 100% with no additional non-federal funds required. See the Soft Match section in this chapter for further information on use of toll credits for the non-federal share.

D. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM

1. WPA FUND CODES

CM and ACCM

2. PROGRAM PURPOSE

The CMAQ program is continued in MAP-21 to provide a flexible funding source to State and local governments for transportation projects and programs to help meet the requirements of the Clean Air Act. Funding is available to reduce congestion and improve air quality for areas that do not meet the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter (nonattainment areas) and for former nonattainment areas that are now in compliance (maintenance areas).

3. STATUTORY CITATION(S)

MAP-21 §11113; 23 USC 149

4. FUNDING FEATURES

Funded by contract authority from the Highway Account of the Highway Trust Fund. Funds are subject to the overall Federal-aid obligation limitation.

MAP-21 has a new approach to core formula program funding, authorizing a lump sum total instead of individual authorizations for each program. Once each State's combined total apportionment is calculated, an amount is set aside for the State's CMAQ program via a calculation based on the relative size of the State's FY 2009 CMAQ apportionment.

a. Set-asides

From the State's CMAQ apportionment, the following sums are to be set aside:

- A proportionate share of funds for the State's Transportation Alternatives (TA) program.

- 2% for State Planning and Research (SPR). [§52005; 23 USC 505]

b. Eligible activities

Funds may be used for transportation projects likely to contribute to the attainment or maintenance of a national ambient air quality standard, with a high level of effectiveness in reducing air pollution, and be included in the Metropolitan Planning Organization's (MPO's) current transportation plan and transportation improvement program (TIP) or the current state transportation improvement program (STIP) in areas without an MPO.

Some specific eligible activities are described below:

- Establishment or operation of a traffic monitoring, management, and control facility, including advanced truck stop electrification systems, if it contributes to attainment of an air quality standard.
- Projects that improve traffic flow, including projects to improve signalization, construct HOV lanes, improve intersections, add turning lanes, improve transportation systems management and operations that mitigate congestion and improve air quality, and implement ITS and other CMAQ-eligible projects, including projects to improve incident and emergency response or improve mobility, such as real-time traffic, transit, and multimodal traveler information.
- Purchase of integrated, interoperable emergency communications equipment.
- Projects that shift traffic demand to nonpeak hours or other transportation modes, increase vehicle occupancy rates, or otherwise reduce demand.
- Purchase of diesel retrofits or conduct of related outreach activities.
- Facilities serving electric or natural gas-fueled vehicles (except where this conflicts with prohibition on rest area commercialization) are explicitly eligible.
- Some expanded authority to use funds for transit operations.

Workforce development, training, and education activities are also an eligible use of CMAQ funds.

[§1109; 23 USC 504(e)]

5. PROGRAM FEATURES

Some existing provisions are explicitly highlighted:

- PM-10 non-attainment -- A State may obligate CMAQ funds for projects for PM-10 non-attainment areas without regard to type of air quality standard it addresses.
- HOV facilities -- No funds may be used to add capacity except HOV facilities that are available to SOV only at off-peak times.

a. State flexibility

- A State without a nonattainment or maintenance area may use its CMAQ funds for any CMAQ- or STP-eligible project.
- States with a nonattainment or maintenance area that received a minimum apportionment in FY 2009 may use an amount of its current CMAQ funds for any STP-eligible project. The amount is based on the proportion of the State's FY 2009 CMAQ apportionment that could be obligated in any area of the State for STP projects.
- The amount that may be obligated in any area of the State for STP-eligible projects is to be adjusted if a new nonattainment area is designated or a nonattainment area re-designated as an attainment area.

b. Evaluation of projects

- The USDOT Secretary must maintain and disseminate a cumulative database describing the impacts of projects, including project name, location, sponsor, cost, and cost-effectiveness (based on reduction in congestion and emissions) to the extent already measured.
- The USDOT Secretary, in consultation with EPA, shall evaluate cost effectiveness of projects periodically, for use by States and MPOs in project selection.

c. Optional programmatic eligibility

At the discretion of an MPO, a technical assessment of a selected program of projects may be conducted through modeling or other means. If the required emissions reduction is demonstrated, no further demonstration is needed for individual projects included.

PM 2.5 areas

MAP-21 calls for a State with PM 2.5 (fine particulate matter) nonattainment or maintenance areas to give priority to using funds for projects proven to reduce PM 2.5 emissions in such areas; eligible projects to mitigate PM 2.5 include diesel retrofits.

d. CMAQ outcomes assessment study

- The USDOT Secretary, in consultation with EPA, will assess emission reductions, air quality and health impacts of actions funded under the CMAQ program since the enactment of SAFETEA-LU.
- To be performed by an independent scientific research organization.
- Scoping report due within 1 year; final report within 2 years of enactment.
- Funded by up to \$1 million set aside from the amount authorized for FHWA's Administrative expenses.

e. Performance

The CMAQ program has new performance-based features.

- Within 18 months of enactment, the USDOT Secretary, in consultation with States, MPOs, and other stakeholders, is directed to publish a rulemaking establishing measures for States to use to assess traffic congestion and on-road mobile source emissions. [§1203; 23 USC 150(c)]
- States are required to establish targets for these measures within 1 year of the final rule on national performance measures. [§1203; 23 USC 150(d)]
- Each MPO with a transportation management area of more than one million in population representing a nonattainment or maintenance area is required to develop and update biennially a performance plan to achieve air quality and congestion reduction targets. [§1113; 23 USC 149(l)]

6. FEDERAL SHARE

The Federal share is generally 80 percent, subject to the sliding scale adjustment, which is a 1.93% additive for Florida, for a total federal share of 81.93%. For those on the Interstate System, the Federal share will be 90 percent. Certain other activities, including carpool/vanpool projects, priority control systems for emergency vehicles and transit vehicles and traffic control signalization receive a Federal share of 100 percent.

Although the nominal federal share is stated above, Florida has elected to utilize toll credits to “soft match” these federal funds in lieu of matching with state funds. This, in essence, allows the Department to increase the federal share to 100% with no additional non-federal funds required. See the Soft Match section in this chapter for further information on use of toll credits for the non-federal share.

E. HIGHWAY SAFETY IMPROVEMENT PROGRAM

1. WPA FUND CODES

Highway Safety Improvement Program – **HSP** fund code

Railway-Highway Crossings:

- Hazard Elimination – **RHH** fund code; **ACRH** for AC version of fund code
- Protective Devices – **RHP** fund code; **ACRP** for AC version of fund code
- High Risk Rural Roads – **HRRR** fund code (used until balance forward is obligated)

2. PROGRAM PURPOSE

MAP-21 continues the Highway Safety Improvement Program (HSIP) to achieve a significant reduction in traffic fatalities and serious injuries on all public roads, including non-State-owned public roads and roads on tribal lands. The HSIP requires a data-driven, strategic approach to improving highway safety on all public roads that focuses on performance.

3. STATUTORY CITATION(S)

MAP-21 §1112; 23 USC 130 and 148

4. FUNDING FEATURES

Funded by contract authority from the Highway Account of the Highway Trust Fund. Funds are subject to the overall Federal-aid obligation limitation.

MAP-21 has a new approach to core formula program funding, authorizing a lump sum total instead of individual authorizations for each program. Once each State's share of the total is calculated, it is divided up by program within the State.

- Set-asides

From the State's HSIP apportionment, the following sums are to be set aside:

- Railway-highway crossings -- \$220 million.
- A proportionate share of funds for the State's Transportation Alternatives (TA) program.
- 2% for State Planning and Research (SPR). [§52005; 23 USC 505]

5. ELIGIBLE USE OF FUNDING

A highway safety improvement project is any strategy, activity or project on a public road that is consistent with the data-driven State Strategic Highway Safety Plan (SHSP) and corrects or improves a hazardous road location or feature or addresses a highway safety problem. MAP-21 provides an example list of eligible activities, but HSIP projects are not limited to those on the list.

Workforce development, training, and education activities are also an eligible use of HSIP funds.

[§1109; 23 USC 504(e)]

6. PROGRAM FEATURES

The primary features of the current HSIP are retained, including the requirement for a comprehensive, data-driven, SHSP that defines State safety goals and describes a program of strategies to improve safety. To obligate HSIP funds, a State must develop, implement and update a SHSP, produce a program of projects or strategies to reduce identified safety problems, and evaluate the SHSP on a regular basis.

The SHSP remains a statewide coordinated plan developed in cooperation with a broad range of multidisciplinary stakeholders.

States are required to have a safety data system to perform problem identification and countermeasure analysis on all public roads, adopt strategic and performance-based goals, advance data collection, analysis, and integration capabilities, determine priorities for the correction of identified safety problems, and establish evaluation procedures.

The USDOT Secretary is required to establish a subset of the model inventory of roadway elements (listing of roadway and traffic data elements critical to safety management, analysis, and decision-making), to be adopted and used by States to support these requirements.

a. Strategic Highway Safety Plan Updates

MAP-21 establishes a new requirement for regular SHSP updates.

- The USDOT Secretary is directed to establish requirements for plan updates by October 2013.
- States will submit updated plans to the USDOT Secretary, along with a description of the process used to update the plan.
- If a State fails to have an approved updated plan by August 1 of the first federal fiscal year after the requirements are established, that State will not be eligible to receive additional obligation limitation during the annual redistribution of unused obligation limitation (August redistribution).

b. Special Rules

- High Risk Rural Road (HRRR) Safety – A HRRR is any rural major or minor collector or a rural local road with significant safety risks, as defined by a State in accordance with an updated SHSP. If the fatality rate on such roads increases over the most recent 2-year period for which data are available, in the next federal fiscal year the State must obligate for this purpose an amount at least equal to 200% of its FY 2009 HRRR set-aside.
- Older drivers – If fatalities and serious injuries per capita for drivers and pedestrians over age 65 increases during the most recent 2-year period for which data are available, a State is required to incorporate strategies focused on older drivers and pedestrians in the next SHSP update.

c. Reporting

States are required to report to the USDOT Secretary on progress made implementing highway safety improvements, effectiveness, and the extent to which fatalities and serious injuries on all public roads have been reduced, including a breakdown by functional classification and ownership to the maximum extent practicable. The USDOT Secretary will establish the content and schedule for such reports, which will be made available to the public on the DOT website.

d. Implementation

States will administer the HSIP, with appropriate oversight by the Office of Safety and the FHWA Division Office. The program also includes a clear linkage between behavioral State safety programs (NHTSA-funded §31102; 23 USC 402) and the SHSP.

e. Performance

Within 18 months of enactment, the USDOT Secretary, in consultation with States, MPOs, and other stakeholders, is directed to publish a rulemaking establishing measures for the States to use to assess serious injuries and fatalities per vehicle mile traveled and number of serious injuries and fatalities.

[§1203; 23 USC 150(c)]

States will establish targets for these measures within 1 year of the final rule on national performance measures. [§1203; 23 USC 150(d)]

If a State has not met or made significant progress toward meeting the targets within 2 years of their establishment, the State must use an amount of its formula obligation limitation equal to its prior year HSIP apportionment only for obligation of its HSIP funding, and submit an annual

implementation plan on how the State will make progress to meet performance targets. [§1112; 23 USC 148(i)]

7. HIGHWAY SAFETY IMPROVEMENT PROGRAM (HSIP) MAP-21 INTERIM ELIGIBILITY GUIDANCE

A non-exclusive list of examples of highway safety improvement projects is included in 23 U.S.C. 148(a)(4). Eligibility of specific projects, strategies and activities generally are based on:

- Consistency with a State's SHSP;
- Crash experience, crash potential, crash rate, or other data-supported means;
- Compliance with title 23 requirements; and
- State's strategic or performance based safety goals to reduce fatalities and serious injuries on all public roads.

However, there are several types of highway safety improvement projects that may warrant additional consideration, such as:

- **Automated Enforcement:**
As specified in section 1533 of MAP-21, HSIP funds may not be used for any program to purchase, operate, or maintain an automated traffic enforcement system in federal fiscal years 2013 and 2014, unless such systems are used to improve safety in school zones. Automated traffic enforcement systems may be eligible for other Federal-aid funding.
- **Non-infrastructure projects:**
A highway safety improvement project means strategies, activities, and infrastructure projects on a public road that are consistent with a State strategic highway safety plan and (i) correct or improve a hazardous location or feature; or (ii) address a highway safety problem. (23 U.S.C. 148(a)(4)). As such, traditional infrastructure-related improvements, as well as non-infrastructure projects, are eligible for HSIP funds.

Similar to infrastructure-related projects, non-infrastructure projects are consistent with a State's SHSP, are based on crash experience, crash potential, crash rate, or other data-supported means, and support a State's safety performance targets. (23 U.S.C. 148(c)(2)(B)). HSIP funding should support implementation of proven, effective activities. Implementation support should either add to existing successful non-infrastructure programs (but not replace existing funding sources), or be used for new, proven activities. In addition, the cost effectiveness of both infrastructure and non-infrastructure projects should be considered during the project selection and prioritization process. All highway safety improvement projects, including non-infrastructure projects, should contribute to a reduction in fatalities and serious injuries on all public roads and the achievement of State safety targets.

Non-infrastructure projects must meet all Title 23 requirements. This includes the requirement that the projects must be identified in the Statewide and Metropolitan Transportation Improvement Program (STIP/TIP) and be consistent with the Statewide Long Range Transportation Plan and the Metropolitan Transportation Plan(s).

- **Projects to maintain minimum levels of retro reflectivity:**
Highway safety improvement projects should correct or improve a hazardous road location or feature; or address a highway safety problem. Under 23 U.S.C. 148(e)(1)(c), HSIP funds may be obligated for any project to maintain minimum levels of retro reflectivity of traffic signs and pavement markings, without regard to whether that project is included in an applicable State SHSP. Under 23 U.S.C. 148 (a)(6), the term "project to maintain minimum levels of retro reflectivity" means a project designed to maintain a highway sign or pavement marking at or

above the minimum levels prescribed in Federal regulation (i.e. Section 2.A.08 of the 2009 edition of the Manual on Uniform Traffic Control Devices (MUTCD) pursuant to 23 CFR Part 655).

As noted in 23 U.S.C. 148(e)(2), other federal-aid funds are eligible to support and leverage the safety program. Improvements to safety features, including traffic signs and pavement markings, that are routinely provided as part of a broader federal-aid project could be funded from the same source as the broader project as long as the use is eligible under that funding source. FHWA encourages the use of other Federal-aid funds for system wide replacement projects, where eligible.

8. FEDERAL SHARE

The federal share is generally 90 percent, subject to the sliding scale adjustment, which is a 1.93% additive for Florida, for a total federal share of 91.93%. The federal share is 100% for certain safety improvements listed in 23 USC 120(c).

Although the nominal federal share is stated above, Florida has elected to utilize toll credits to “soft match” these federal funds in lieu of matching with state funds. This, in essence, allows the Department to increase the federal share to 100% with no additional non-federal funds required. See the Soft Match section in this chapter for further information on use of toll credits for the non-federal share.

F. HIGH RISK RURAL ROADS (INTERIM GUIDANCE)

Date Issued: December 27, 2012, FHWA Office of Safety

Effective Date: October 1, 2012

1. BACKGROUND

On July 6, 2012, the President signed into law P.L. 112-141, the [Moving Ahead for Progress in the 21st Century Act \(MAP-21\)](#). MAP-21 redefined and created a Special Rule for High Risk Rural Roads (HRRR). Prior to MAP-21, the Safe, Accountable, Flexible, Efficient, and Transportation Equity Act: A Legacy For Users (SAFETEA-LU) provided a \$90 million annual set-aside from the Highway Safety Improvement Program (HSIP) for HRRR. MAP-21 legislation does not set aside funds for a high risk rural roads program. However, the Special Rule requires States with an increase in fatality rates on rural roads to obligate a specified amount of HSIP funds on HRRRs. The MAP-21 definition of HRRRs is important for States to consider. If the Special Rule applies, States will be required to obligate funds on those specific roadways.

2. LEGISLATIVE REFERENCE

Section 1112 of MAP-21 changed the definition of a "high risk rural road" in 23 USC 148(a)(1) to: "any roadway functionally classified as a rural major or minor collector or a rural local road with significant safety risks, as defined by a State in accordance with an updated State strategic highway safety plan."

MAP-21 also established a Special Rule for HRRR safety in 23 USC 148(g)(1), which states: "If the fatality rate on rural roads in a State increases over the most recent 2-year period for which data are available, that State shall be required to obligate in the next federal fiscal year for projects on high risk rural roads an amount equal to at least 200 percent of the amount of funds the State received for federal fiscal year 2009 for high risk rural roads under subsection (f) of this section, as in effect on the day before the date of enactment of the MAP-21."

3. PURPOSE

This guidance addresses: A) how to interpret the new definition of HRRR in a State; B) how to determine if the Special Rule applies for a particular State; and C) how a State should carry out the provisions of the Special Rule if it applies.

4. GUIDANCE

a. Interpreting the new definition of a high risk rural road:

The definition of a HRRR in MAP-21 provides flexibility to States in determining their HRRRs. The definition of a HRRR is still limited to the same functional classifications as under SAFETEA-LU, rural major and minor collectors and rural local roads. However, only the roads within those functional classifications "with significant safety risks" will become the roadways designated as HRRR. The legislation requires that States define the significant safety risks of these roads in their updated State Strategic Highway Safety Plans (SHSPs).

To determine what a "significant safety risk" is, States may develop their own methodologies as identified in their updated SHSPs for the specified roadway functional classifications. The FHWA will review and approve the process a State uses to define a significant safety risk per 23 USC 148(d)(2). Some examples of possible definitions for "significant safety risk" are provided below and may be used singularly or in combination.

- Continue to use the SAFETEA-LU definition: roadways with a fatality rate that is higher than roadways of similar functional classifications in that State. For instance, a roadway with a fatality rate 10 percent higher than roads with a similar classification in that State. Alternatively, a State may use crash rates resulting in fatalities and serious injuries.
- Use roadways with a crash frequency above a designated threshold, which eliminates the comparison calculation to other roadways.
- Define high risk rural roadway characteristics that are correlated with specific severe crash types, such as cross-section width, lack of shoulders, substandard alignment, hazardous roadside, etc.
- Use information gathered through means such as field reviews, safety assessments, road safety audits, and local knowledge and experience. Using information from observations in the field can identify high risk locations that may not be identified through data analysis or by identifying roadway characteristics.

In the interim, States that have not yet updated their SHSPs to comply with MAP-21 requirements should use the definition prior to MAP-21 for their HRRRs. The definition for High Risk Rural Road prior to MAP-21 is:

Any roadway functionally classified as a rural major or minor collector or rural local road:

- On which the accident rate for fatalities and incapacitating injuries exceeds the statewide average for those functional classifications or roadway; or
- That will likely have increases in traffic volumes that are likely to create an accident rate for fatalities and incapacitating injuries that exceeds the statewide average for those functional classifications of roadway.

b. How to determine if the HRRR Special Rule applies:

MAP-21 states that the Special Rule applies to a State if "the fatality rate on rural roads in a State increases over the most recent 2-year period for which data are available." The FHWA will use

the fatality rate per 100 million vehicle miles traveled (100 MVMT) for roads in the State classified as rural major and minor collectors and rural local roads. The FHWA will use the Fatality Analysis Reporting System (FARS) data and Highway Performance Monitoring System (HPMS) data to calculate the fatality rate.

The first year States would be required to obligate funds towards HRRRs in accordance with this Special Rule is FY 2014. For FY 2014, the most recent data available will be 2011 fatalities. Consistent with other performance measures, FHWA will use a 5-year rolling average for the fatality rate. This approach provides a balance between the stability of the data (by averaging multiple years) and providing an accurate trend of the data (by minimizing how far back in time to consider data). The chart below shows the relationship of the annual fatality rates to the federal fiscal year for which the Special Rule would apply. For example, the 5-year rolling average ending in 2009 is 2 years before the 5-year rolling average ending in 2011, which meets the MAP-21 requirement that this Special Rule apply if the fatality rate on rural roads in a State increases over the most recent 2-year period.

5-year averages to compare	FHWA Notifies State DOT if Special Rule Applies	Federal fiscal year that Special Rule would apply
2005-2009 to 2007-2011	December 2012	FY 2014 Oct 1, 2013-Sept 30, 2014
2006-2010 to 2008-2012	December 2013	FY 2015 Oct 1, 2014-Sept 30, 2015
2007-2011 to 2009-2013	December 2014	FY 2016 Oct 1, 2015-Sept 30, 2016

This process would continue each year.

In order to prevent an extremely small increase in fatalities from triggering the rule, FHWA will round to the nearest tenth in calculating the fatality rate to determine if the Special Rule applies. For example:

The State of Lincoln's 5-year average fatality rates based on 100 MVMT on the three functional classifications of rural roads for the periods ending 2009 and 2011 increased from 2.11 to 2.13. Rounded to the nearest tenth, the fatality rates on rural roads for 2009 and 2011 would be 2.1 and 2.1, respectively. Therefore, the Special Rule would not apply to the State of Lincoln for the next federal fiscal year.

The State of Jefferson's 5-year average fatality rates in 100 MVMT on the three functional classifications of rural roads for the periods ending in 2009 and 2011 increased from 2.30 to 2.39. Rounded to the nearest tenth, the fatality rates on rural roads for 2009 and 2011 would be 2.3 and 2.4, respectively. Therefore the Special Rule would apply to the State of Jefferson for the next federal fiscal year.

c. Carrying out provisions if the special rule applies

If the Special Rule applies to a State, MAP-21 requires that the State obligate in the next federal fiscal year for high risk rural roads an amount at least equal to 200 percent of its FY 2009 high

risk rural roads set-aside. This amount for each State if the special rule were triggered is provided starting on page 5 of this guidance.

If the Special Rule applies to a State in a particular federal fiscal year, the FHWA will set aside the required amount from that year's HSIP apportionment with a period of availability (obligation limit) of one year. This set-aside will have its own FMIS code.

The FHWA will provide regular updates to the Division Offices to track the progress of obligating the required amount for States where the Special Rule applies. If the Special Rule is applied to a State, the State should include information in its annual HSIP report verifying that it met the requirements of the Special Rule.

d. Transition from SAFETEA-LU to MAP-21

All remaining HRRR funds set aside under SAFETEA-LU will be administered under the requirements of SAFETEA-LU. If the MAP-21 HRRR Special Rule applies to a State, the HSIP funds set aside for HRRR will be administered under the requirements of MAP-21.

Table: HRRR 2009 Set-Aside Amounts and Obligation Requirements under MAP-21 Special Rule

Source: <http://www.fhwa.dot.gov/legsregs/directives/notices/n4510742/n4510742t17.htm>

G. STATE PLANNING AND RESEARCH PROGRAM

1. WPA FUND CODES

Statewide Planning Activities – use **HP** fund code

Research Activities – use **HR** fund code

2. PROGRAM PURPOSE

The State Planning and Research Program funds States' statewide planning and research activities. The funds are used to establish a cooperative, continuous, and comprehensive framework for making transportation investment decisions and to carryout transportation research activities throughout the State.

3. STATUTORY CITATION(S)

MAP-21 §52005; 23 USC 505

4. FUNDING FEATURES

Funding is provided for SP&R by a 2% set-aside from each State's apportionments of four programs: the National Highway Performance Program (NHPP); the Surface Transportation Program (STP); the Highway Safety Improvement Program (HSIP); and the Congestion Mitigation Air Quality Improvement Program (CMAQ) Program.

Of the funds that are set aside, a minimum of 25% must be used for research purposes, unless the State certifies that more than 75% of the funds are needed for statewide and metropolitan planning and the USDOT Secretary accepts such certification.

In addition, transportation planning, research and development, and technology transfer activities are eligible for funding under the Surface Transportation Program.

5. ELIGIBLE ACTIVITIES

- Engineering and economic surveys and investigations
- Planning of future highway programs and local public transportation systems and planning of the financing of such programs and systems, including metropolitan and statewide planning
- Development and implementation of management systems, plans and processes under the NHPP, HSIP, CMAQ, and the National Freight Policy
- Studies of the economy, safety, and convenience of surface transportation systems and the desirable regulation and equitable taxation of such systems
- Research, development, and technology transfer activities necessary in connection with the planning, design, construction, management, and maintenance of highway, public transportation, and intermodal transportation systems
- Study, research, and training on the engineering standards and construction materials for transportation systems described in the previous bullet, including the evaluation and accreditation of inspection and testing and the regulation and taxation of their use
- Conduct of activities relating to the planning of real-time monitoring elements
- Implementation by the USDOT Secretary of the findings and results of the Future Strategic Highway Research Program^[1]

SP&R funds may be used by States as the non-Federal share for the Local Technical Assistance Program and the University Transportation Centers program.

6. FEDERAL SHARE

The Federal share is generally 80 percent, subject to the sliding scale adjustment, which is a 1.93% additive for Florida, for a total federal share of 81.93%.

Although the nominal federal share is stated above, Florida has elected to utilize toll credits to “soft match” these federal funds in lieu of matching with state funds. This, in essence, allows the Department to increase the federal share to 100% with no additional non-federal funds required. See the Soft Match section in this chapter for further information on use of toll credits for the non-federal share.

H. METROPOLITAN PLANNING – INTERIM GUIDANCE

1. WPA FUND CODE

Use **PL** fund code

2. PROGRAM PURPOSE

The purpose of Metropolitan Planning funds is to carry out the requirements of 23 U.S.C. 134 and provide for a continuing, comprehensive, and cooperative (3-C) metropolitan transportation planning process. In accordance with 23 U.S.C. 104 generally, Metropolitan Planning funds shall be made available to each Metropolitan Planning Organization (MPO) designated for an urbanized area with a population of more than 50,000 individuals and responsible for carrying out the 3-C metropolitan planning process.

The effective date of this MAP-21 Metropolitan Planning eligibility guidance is October 1, 2012. The Metropolitan Planning requirements in effect on October 1, 2012 will apply to all related funding obligated on or after that date, whether carryover or new.

3. LEGISLATIVE REFERENCE

Section 1201 of the MAP-21 established requirements for metropolitan transportation planning in 23 U.S.C. 134. Section 1105 of the MAP-21 provides for the apportionment of Metropolitan Planning funds in 23 U.S.C. 104.

The following are sections of Title 23 applicable to Metropolitan Planning.

- 23 U.S.C. 104 Apportionment
- 23 U.S.C. 120 Federal share payable
- 23 U.S.C. 134 Metropolitan transportation planning
- 23 U.S.C. 135 Statewide transportation planning
- 23 U.S.C. 150 National goals and performance management measures
- 23 U.S.C. 168 Integration of planning and environment
- 23 U.S.C. 169 Development of programmatic mitigation plans

4. FUNDING

a. Authorization Levels under MAP 21

Section 1101 of MAP-21 authorizes funds for Metropolitan Planning and Section 1105 amends 23 U.S.C. 104 and provides for the apportionment of funds.

MAP-21's approach to the distribution of formula funds is based on the amount of formula funds each State received in FY 2012. Once each State's total Federal-aid apportionment is calculated, an amount is set aside for the State's Metropolitan Planning through a calculation based on the size of the State's Federal fiscal year (FY) 2009 Metropolitan Planning apportionment relative to the State's total FY 2009 apportionment. Previously under SAFETEA-LU, Metropolitan Planning was funded by a 1 ¼ percent takedown from the amounts authorized for the core apportioned programs (except for the Highway Safety Improvement Program). The total amount of the takedown was apportioned to the States based on urbanized area population, and each State received no less than a minimum of ½ of 1 percent of the total apportionment.

Amounts for the Transportation Alternatives Program are set aside from each State's Metropolitan Planning apportionment.

The Fiscal Management Information System (FMIS) program codes will be provided in a memorandum to the FHWA Division Offices and States once the program codes are finalized.

b. Period of Availability

Metropolitan Planning funds are contract authority from the Highway Account of the Highway Trust Fund. They are available for obligation for a period of 3 years after the last day of the federal fiscal year for which the funds are authorized.

c. Obligation Limitation

Metropolitan Planning funds are subject to the annual obligation limitation imposed on the Federal-aid highway program.

5. ELIGIBILITY

Generally, funds apportioned to a State to carry out Metropolitan Transportation Planning shall be obligated for planning activities to carry out the requirements of 23 U.S.C. 134. See 23 U.S.C. 104(b)(5) and 104(d). Each State shall make the Metropolitan Planning Funds available to the MPOs for use on metropolitan transportation planning activities within the State, by establishing a formula to allocate Metropolitan Planning funds within the State to the MPOs based on the following factors, at a minimum:

- Population,
- Attainment of air quality standards,
- Status of planning,
- Metropolitan area transportation needs, and
- Other factors, as necessary to provide for an appropriate distribution of funds to carry out section 134, and other applicable requirements of Federal law.

The distribution formula for Metropolitan Planning funds within the State shall be developed by the State, and reviewed and approved by the USDOT Secretary. See 23 U.S.C. 104(d)(2)(A).

The State shall reimburse MPOs not later than 15 business days after the date of receipt by the State of a request for reimbursement of expenditures made by a MPO for carrying out section 134. 23 U.S.C. 104(d)(2)(B).

Subject to approval of the USDOT Secretary, a state that received a minimum apportionment for carrying out 23 U.S.C. 134 for FY 2009 may use the funds apportioned for Metropolitan Planning to fund transportation planning outside of urbanized areas. 23 U.S.C. 104(d)(2)(A)(ii).

Any funds that are not used to carry out section 134 may be made available by a metropolitan planning organization to the State to fund activities under section 135 (Statewide and nonmetropolitan transportation planning).

6. ELIGIBLE ACTIVITIES

Metropolitan Planning funds are available for MPOs to carry out the metropolitan transportation planning process required by 23 U.S.C. 134. Under certain circumstances described above and in 23 U.S.C. 104(d)(1), a State may utilize the funds to carry out statewide transportation planning activities under 23 U.S.C. 135, including statewide transportation planning activities outside of urbanized areas.

7. TRANSITION PERIOD

These provisions are effective October 1, 2012.

8. FEDERAL SHARE

The Federal share is generally 80 percent, subject to the sliding scale adjustment, which is a 1.93% additive for Florida, for a total federal share of 81.93%.

Although the nominal federal share is stated above, Florida has elected to utilize toll credits to “soft match” these federal funds in lieu of matching with state funds. This, in essence, allows the Department to increase the federal share to 100% with no additional non-federal funds required. See the Soft Match section in this chapter for further information on use of toll credits for the non-federal share.

I. RECREATIONAL TRAILS PROGRAM

1. WPA FUND CODE

Use **RECT** fund code

MAP-21 authorized funding for the Recreational Trails Program (RTP) as a set-aside of the new Transportation Alternatives Program (TAP) (23 U.S.C. 213). The RTP funding is the same as the FY 2009 amount (unless the State opts out; see below): whatever a State received for the RTP in FY 2009 (as revised) will be the RTP amount. This will be up to \$84.16 million nationwide, annually, for FY 2013 and 2014.

MAP-21 did not amend the RTP as a program in 23 U.S.C. 206. Existing RTP requirements and provisions remain unchanged, including how States administer the RTP. RTP funds are still considered apportioned funds.

MAP-21 authorized an opt-out provision for the RTP. A State may opt out of the RTP if the Governor of the State notifies the USDOT Secretary not later than 30 days prior to apportionments being made for any federal fiscal year (September 1).

- If a State opts out of the RTP, the funds remain as Transportation Alternatives Program (TAP) funds.
- States that opt out of the RTP lose the ability to use RTP funds for State RTP administrative costs for the federal fiscal year because those funds are tied to apportionments for a federal fiscal year. If the State opts out, then there is no program for the federal fiscal year.
- Recreational trail projects will be broadly eligible for the TAP. However, the State would have to treat all trail projects using TAP funds as projects on a Federal-aid highway, meaning all projects must be treated as highway projects for contracting and wage rate purposes.

MAP-21 also amended the Surface Transportation Program (STP) to allow any projects eligible under the RTP to be eligible for STP funds. Recreational trail projects in highway rights-of-way must be treated as highway projects, but projects not in highway-rights-of-way may use "Common Rule" procedures under 49 CFR Part 18. The Recreational Trails Program provides funds to the States to develop and maintain recreational trails and trail-related facilities for both non-motorized and motorized recreational trail uses. The RTP is an assistance program of the Department of Transportation's Federal Highway Administration (FHWA). Federal transportation funds benefit recreation including hiking, bicycling, in-line skating, equestrian use, cross-country skiing, snowmobiling, off-road motorcycling, all-terrain vehicle riding, four-wheel driving, or using other off-road motorized vehicles.

The RTP funds come from the Federal Highway Trust Fund, and represent a portion of the motor fuel excise tax collected from non-highway recreational fuel use: fuel used for off-highway recreation by snowmobiles, all-terrain vehicles, off-highway motorcycles, and off-highway light trucks.

The Recreational Trails Program funds are distributed to the States by legislative formula: half of the funds are distributed equally among all States, and half are distributed in proportion to the estimated amount of non-highway recreational fuel use in each State.

http://www.fhwa.dot.gov/environment/recreational_trails/overview/map21.cfm

2. FEDERAL SHARE

The Federal share is generally 80 percent, subject to the sliding scale adjustment, which is a 1.93% additive for Florida, for a total federal share of 81.93%.

Although the nominal federal share is stated above, Florida has the option to utilize toll credits to “soft match” these federal funds in lieu of providing matching funds. This, in essence, allows the Department to increase the federal share to 100% with no additional non-federal funds required. The Florida Department of Environmental Protection advises FDOT on which projects to use soft match when authorizing these federal funds. See the Soft Match section in this chapter for further information on use of toll credits for the non-federal share.

Funds from other Federal programs outside the U.S. Department of Transportation may be used to fulfill the non-Federal share requirement, except that the combination of the U.S. DOT other Federal agency share may not exceed 95 percent.

Upon approval, planning and environmental assessment costs incurred prior to project approval may be credited toward the non-Federal share cost of the project.

Recreational Trails funds may be used to match other Federal program funds for purposes that would be eligible under the Recreational Trails program.

J. FEDERAL LANDS ACCESS PROGRAM

1. WPA FUND CODE

Use **PLH** fund code

2. PROGRAM PURPOSE

The Federal Lands Access Program (Access Program) provides funds for projects on Federal Lands access transportation facilities that are located on or adjacent to, or that provide access to Federal lands.

3. STATUTORY CITATION(S)

MAP-21 §1119; 23 USC 201, 204

4. FUNDING FEATURES

Funded by contract authority from the Highway Account of the Highway Trust Fund. Funds are subject to the overall Federal-aid obligation limitation.

Funds are distributed by formula among States that have Federal lands managed by the National Park Service, the U.S. Forest Service, the U.S. Fish and Wildlife Service, the Bureau of Land Management, and the U.S. Army Corps of Engineers.

80% of funds go to States that contain at least 1.5% of the national total of public lands, and the remaining 20% going to States with less than 1.5% of the national total.

Funds are distributed by formula based on the following factors *:

- 30% based on the State's share of total recreational visitation in all States.

- 5% based on the State's share of total Federal land area in all States.
- 55% based on the State's share of total Federal public road miles in all States.
- 10% based on the State's share of total number of Federal public bridges in all States.

* Necessary data is to be provided by the Federal Land Management Agencies (FLMAs).

Prior to distribution of Access Program and Federal Lands Transportation Program (FLTP) funds, the USDOT Secretary may set aside up to 5% of funds each federal fiscal year under both programs to conduct transportation planning, asset management, road and bridge inventory, and condition data collection. [§1119; 23 USC 201(c)(7)]

5. FEDERAL SHARE

Determined in accordance with 23 USC 120. [§1119; 23 USC 201(b)(7)]

Federal funds other than those made available under title 23 and title 49 may be used to pay the non-Federal share of Access Program projects. [§1508; 23 USC 120(j)]

6. ELIGIBLE ACTIVITIES

- Transportation planning, research, engineering, preventive maintenance, rehabilitation, restoration, construction, and reconstruction of Federal lands access transportation facilities located on or adjacent to, or that provide access to, Federal land, and—
 - adjacent vehicular parking areas;
 - acquisition of necessary scenic easements and scenic or historic sites;
 - provisions for pedestrians and bicycles;
 - environmental mitigation in or adjacent to Federal land to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity;
 - construction and reconstruction of roadside rest areas, including sanitary and water facilities; and
 - other appropriate public road facilities, as determined by the USDOT Secretary.
- Operation and maintenance of transit facilities.
- Any transportation project eligible for assistance under title 23 of the United States Code that is within or adjacent to, or that provides access to, Federal land.

[§1119; 23 USC 204(a)(1)]

7. PROGRAM FEATURES

a. Definition

Federal lands access transportation facility— A public highway, road, bridge, trail, or transit system that is located on, is adjacent to, or provides access to Federal lands for which title or maintenance responsibility is vested in a State, county, town, township, tribal, municipal, or local government.

[§1103; 23 USC 101(a)(7)]

b. Programming decisions committee

- Each State is required to create a committee composed of a representative of the FHWA, a representative of the State DOT, and a representative of the appropriate political subdivisions of the State. This committee will make programming decisions for Access Program funds.
- The committee is required to cooperate with applicable Federal agencies within the State prior to any joint discussion or final programming decision.
- The committee shall give preference to projects that provide access to, are adjacent to, or are located within high-use Federal recreation sites or Federal economic generators, as identified by the FLMAs.

c. Program administration

Point of obligation is the authorization by the USDOT Secretary, or the USDOT Secretary of the appropriate FLMA if the agency is the contracting office, of engineering and related work for the development, design, and acquisition associated with a construction project, whether performed by contract or agreement authorized by law, or the approval of plans, specifications, and estimates (PS&E) (except for Federal salaries and expenses) for all project work performed by USDOT or FLMAs, regardless of funding source.

d. Planning

- Transportation planning procedures for the Access Program must be consistent with Statewide and Metropolitan planning processes.
- Regionally significant Access Program projects must be developed in cooperation with State and metropolitan planning organizations and included in Federal lands access program plans, Federal lands transportation plans, tribal transportation program plans, State and metropolitan plans, and transportation improvement programs.

e. Data collection

FLMAs are required to collect data necessary to support the Access Program, FLTP, and Tribal Transportation Program, including inventory and condition of Federal lands and tribal transportation facilities and bridge inspection and inventory information on tribal bridges and any Federal bridge open to the public.

f. Reimbursable agreements

Reimbursable agreements may be used with State, local and/or tribal governments, in addition to agreements between Federal agencies.

g. Transfers

Funds made available for the Access Program and the FLTP may be voluntarily transferred by the USDOT Secretary within and between those programs with the concurrence, as appropriate, of the affected FLMAs, State DOTs, and local government agencies. Transferred funds must be credited back at a later date.

[§1119; 23 USC 201]

K. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES

1. WPA FUND CODES

Use the **FBD** fund code

2. PROGRAM PURPOSE

This program provides funding for the construction of ferry boats and ferry terminal facilities.

3. STATUTORY CITATION(S)

MAP-21 §1121; 23 U.S.C. 129(c), 147; SAFETEA-LU §1801(e)

4. FUNDING FEATURES

Funded by contract authority from the Highway Account of the Highway Trust Fund, to remain available until expended. Funds are subject to the overall Federal-aid obligation limitation.

Funds will be allocated to States, United States territories, and Puerto Rico, and further distributed among eligible entities based on the following ratio:

- 20% based on the number of ferry passengers carried by each ferry system;
- 45% based on the number of vehicles carried by each ferry system; and
- 35% based on the total route miles serviced by each ferry system.

Unlike the former Ferry Boat Discretionary (FBD) program, there are no set-asides for specific States, and funding under this program is no longer discretionary.

5. ELIGIBILITY REQUIREMENTS

FBD eligibilities continue unchanged:

- Construction of ferry boats and ferry terminal facilities within the States and U.S. territories.
- It is not feasible to build a bridge, tunnel, combination thereof, or other normal highway structure in lieu of the use of such ferry.
- Ferry must operate on a route that has been classified as a public road (and that has not been designated as part of the Interstate System).
- Ferry must be either publicly owned or operated or majority publicly owned.
- The operating authority and the amount of fares charged for passage on the ferry shall be under the control of the State or other public entity.
- All revenues must be applied to actual and necessary costs of operation, maintenance, repair, debt service, negotiated management fees, and a reasonable return on investment for any privately operated ferry.

- Except as permitted under 23 USC 129(c)(5), ferry cannot be operated in foreign or international waters.

6. PROGRAM FEATURES

For each of FFY13 and FFY14, allows the use of up to \$500,000 from the administrative funding of the Bureau of Transportation Statistics (BTS) to maintain the national ferry database BTS was required to establish under SAFETEA-LU. Also adds a new requirement that this database be consistent with the national transit database maintained by the Federal Transit Administration. [§1121(b); SAFETEA-LU §1801(e)(4)]

L. TOLLING PROGRAMS

1. SECTION 129 GENERAL TOLLING PROGRAM

Section 1512(a) of MAP-21 provides a complete replacement for the statutory language of 23 U.S.C. 129(a). The new language makes a number of significant changes to the program, including tolling eligibilities; requirements for tolling agreements; and requiring audits to ensure compliance with requirements on the use of toll revenues.

2. TOLLING ELIGIBILITIES

MAP-21 incorporated some of the key flexibilities from existing pilot programs to Section 129 tolling eligibilities, which include:

- Tolling of newly constructed lanes added to existing toll-free Interstate highways is now permitted under Section 129(a)(1)(B) so long as the facility has the same number of toll-free lanes after construction as it did before (excluding HOV lanes and auxiliary lanes) (this authority was previously available under the Express Lanes Demonstration Program, Section 1604(b) of SAFETEA-LU).
- Tolling for initial construction of highways, bridges, and tunnels on the Interstate System is now permitted under Section 129(a)(1)(A). Prior to MAP-21, such authority was limited to non-Interstate facilities under Section 129. This change effectively mainstreams the Interstate System Construction Toll Pilot Program.

3. TOLLING AGREEMENTS

Public authorities are currently required to execute a tolling agreement with FHWA prior to imposing tolls on a Federal-aid highway (or to use Federal-aid funds on an existing toll facility). Under MAP-21, such agreements will no longer be statutorily required. For toll facilities that have executed Section 129 tolling agreements prior to October 1, 2012, the terms of those agreements will continue in force.

4. USE OF TOLLING REVENUE AND COMPLIANCE AUDITS

While the requirement for upfront tolling agreements under Section 129 no longer exists, MAP-21 largely continues the restrictions on the use of toll revenues that were in place previously. MAP-21 also imposes a new requirement for annual audits to ensure compliance with these limitations, the results of which must be transmitted to USDOT. If the USDOT Secretary concludes that the public authority with responsibility for the toll facility is not in compliance with these restrictions, the USDOT Secretary may require that toll collection on the facility be discontinued until an agreement is reached to achieve compliance. Additional guidance will be developed in the future regarding use of toll revenue and compliance.

5. SECTION 166 HOV/HOT LANES

23 U.S.C. 166(b)(4) provides authority for public agencies to allow toll-paying vehicles that do not meet the minimum occupancy standards to use high occupancy vehicle (HOV) lanes. Such authority is continued under MAP-21^[1]. Section 166 includes a number of provisions that will thus continue to apply whenever a HOV lane is converted to a high occupancy toll (HOT), including:

- The State must annually certify to FHWA that it continues to meet all requirements of 23 U.S.C. 166, including those related to vehicle eligibility; operational performance monitoring, evaluation, and reporting; and enforcement. In particular, States are required to include in their certification a clear demonstration that the presence of HOT vehicles has not caused the facility to become degraded. (23 U.S.C. § 166(d))
- The State must indicate the presence of a program that addresses how motorists can enroll and participate in the toll program.
- The State must indicate that they have implemented a system that will automatically collect the tolls, or indicate that such a system will be implemented in a reasonable period of time following establishment of the HOT lane.^[2]

6. TOLLING AGREEMENTS

Public authorities are currently required to execute a tolling agreement with FHWA prior to converting an HOV facility to a HOT lane under the terms of Section 166. Under MAP-21, such agreements will no longer be required. For toll facilities that have executed Section 166 tolling agreements prior to October 1, 2012, the terms of those agreements will continue in force.

7. USE OF TOLLING REVENUE AND COMPLIANCE AUDITS

The use of tolling revenues from facilities tolled under Section 166 is governed by the requirements of Section 129(a)(3). (23 U.S.C. 166(c)) Such facilities will thus also be subject to the changes made by MAP-21 that were noted previously for Section 129, including the new statutory requirement for annual audits to ensure compliance with the limitations on the use of revenue. MAP-21 also rescinds a prior requirement that public authorities give priority consideration to projects for developing alternatives to single occupant vehicle travel and projects for improving highway safety when using toll revenues for other Title 23 purposes.

8. TOLL PILOT PROGRAMS

Each of the four toll pilot programs is treated differently under MAP-21:

a. Express Lanes Demonstration Program

The Express Lanes Demonstration Program (ELDP) was authorized under Section 1604(b) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU); it expires on September 30, 2012. The program allows up to 15 toll projects aimed at managing congestion and financing highway capacity expansion by tolling new lanes added to an existing facility. The five tolling agreements that were executed by FHWA and project sponsors under this program will continue in force. Projects for which slots were allocated but still not subject to an agreement should proceed under Section 129.

b. Interstate System Construction Toll Pilot Program

The Interstate System Construction Toll Pilot Program (ISCTPP) was authorized under Section 1604(c) of SAFETEA-LU. To date, only one of the three slots authorized under this program has

been reserved^[3] and no projects have received final acceptance into the program or executed tolling agreements. The ISCTPP, which expires on August 9, 2015, was not directly affected by MAP-21. However, MAP-21 does amend Section 129 to include the initial construction of any highway, whether on or off the Interstate System, as an eligible activity for tolling. As this pilot program has thus been effectively mainstreamed under the general tolling program, FHWA will no longer be accepting applications for this program. Division Offices should direct project sponsors interested in constructing new Interstate highways, bridges, or tunnels as toll facilities to the requirements under Section 129.

c. Interstate System Reconstruction and Rehabilitation Pilot Program

The Interstate System Reconstruction and Rehabilitation Pilot Program (ISRRPP) was authorized under Section 1216(b) of the Transportation Equity Act for the 21st Century (TEA-21). MAP-21 does not make any changes to this program, which thus continues in force. In order to receive tolling authority under the ISRRPP, project sponsors are required to have their program application approved by FHWA and to execute a tolling agreement. All three of the slots authorized for this program are conditionally reserved at the present time.^[4]

d. Value Pricing Pilot Program

The Value Pricing Pilot Program (VPPP) was first authorized under the Section 1012(b)(8) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), and was subsequently amended under other laws, most recently in Section 1604(a) of SAFETEA-LU. MAP-21 does not make any changes to this program. While no additional funds are authorized after Federal fiscal year 2012 for the discretionary grant component of this program, FHWA's ability to enter into cooperative agreements for tolling projects under the VPPP will continue in force. Of the 15 slots authorized for this program, seven have been permanently reserved for States that have executed tolling cooperative agreements under the VPPP.^[5] The remaining eight slots are currently reserved for State agencies that are undertaking studies or non-toll projects under the program. Once these studies or projects have been completed, these slots will become available for use by any States with eligible tolling projects under the program, at the discretion of the USDOT Secretary.

A number of congestion pricing strategies, including HOV to HOT conversion and the construction of priced express lanes, can now be accommodated under the Section 129 general tolling program and the Section 166 HOV/HOT lanes program. FHWA prefers that the two mainstream programs be used where possible as opposed to the pilot programs. As a result, requests for tolling authority under the VPPP will be limited to situations that cannot be accommodated under the mainstream tolling programs, such as the pricing of existing toll-free facilities without substantial reconstruction of those facilities.

9. TOLLING PROGRAM ADMINISTRATION

The program changes resulting from MAP-21, as noted above, have a number of implications for the administration of these programs by the FHWA program and division offices.

10. COMPLIANCE AUDITS

The statutes authorizing the ISRRPP and ISCTPP programs require regular audits to ensure compliance with the limitations on the use of toll revenues, which must be transmitted to USDOT. Similar audit requirements have also been included in tolling agreements executed under the Section 129, Section 166, ELDP, and VPPP tolling programs. As noted above, Section 1512 of MAP-21 extends such audit requirements for facilities tolled under Section 129 or Section 166, specifying that such audits be conducted annually and establishing the authority of the USDOT Secretary to require

that toll collection be discontinued if a public authority is found to be in noncompliance. (23 U.S.C. 129(a)(3)) FHWA Division Offices will be responsible for receiving the annual audits from the tolling operators and ensuring compliance with the statutory requirements. These audit requirements will be further addressed in forthcoming guidance.

11. TOLLING MEMORANDUM OF UNDERSTANDING

Although tolling agreements are no longer required under the mainstream tolling programs, State departments of transportation (or other public agencies with responsibilities for toll facilities) may wish to enter into a memorandum of understanding (MOU) with their FHWA Division Offices, particularly in light of the new requirements for audits and the potential consequences of noncompliance (including the discontinuation of toll collection). Suggested elements of the MOU could include establishing the eligibility for tolling a Federal-aid highway facility under Section 129 and outlining how the statutory requirements regarding the use of toll revenues, audits, and other Federal requirements will be met. A sample template for a tolling MOU is provided.

It is recommended that Division Offices consult with the Office of Innovative Program Delivery in developing tolling MOUs, in order to ensure that tolling program requirements and eligibilities are clearly understood by all parties.

M. EMERGENCY RELIEF PROGRAM

1. WPA FUND:

ERxx where xx is to signify the last two digits of the federal fiscal year of the event. ACER can be used until an allocation is received.

2. PROGRAM PURPOSE

The Emergency Relief program provides funds for emergency repairs and permanent repairs on federal-aid highways and roads on federal lands that the USDOT Secretary finds have suffered serious damage as a result of natural disasters or catastrophic failure from an external cause.

3. STATUTORY CITATION(S)

MAP-21 §§1107 and 1508; 23 USC 120(e) and 125; SAFETEA-LU §1112

4. FUNDING FEATURES

Funded by a permanent authorization of \$100 million per year in contract authority from the Highway Account of the Transportation Trust Fund. Funds are available until expended, and exempt from the Federal-aid highway obligation limitation. [23 USC 125]

In addition to the permanent authorization, SAFETEA-LU authorized from the General Fund of the Treasury such sums as may be necessary to supplement the permanent authorization in years when Emergency Relief allocations exceed \$100 million. Appropriation legislation would be necessary to make the additional funds available. [SAFETEA-LU §1112]

Funds are allocated to the States based on an assessment of repair costs following a disaster.

Up to 5% of ER funds may be used by the USDOT Secretary for projects to protect public safety or maintain or protect roadways included within the scope of an emergency declaration.

5. FEDERAL SHARE

In accordance with 23 USC 120, including sliding scale adjustment for States with high percentages of Federally-owned public lands.

- Emergency repair work to restore essential travel, minimize the extent of damage, or protect the remaining facilities, accomplished in the first 180 days after the disaster occurs, may be reimbursed at 100% Federal share; time period may be extended for delay in the ability to access damaged areas.
- For eligible permanent repairs to restore damaged facilities, up to 90% Federal share is allowed if total eligible expenses incurred by the State due to natural disasters or catastrophic failures in a federal fiscal year exceeds the State's apportionments under 23 USC 104 for the federal fiscal year in which the event occurred.
- The Federal share for repair work on federal land, federal land access, and tribal transportation facilities is 100%.

6. ELIGIBLE ACTIVITIES

ER eligibilities are continued, with some changes:

- Addition of actual and necessary costs of maintenance and operation of transit service as eligible activity to provide a temporary substitute for highway traffic service.
- Debris removal is eligible only if the event is not declared a major disaster by the President or where the event is declared a major disaster by the President but the debris removal is not eligible for assistance under the Stafford Act.
- ER funds may participate in costs to repair or reconstruct a comparable facility, which is defined as a facility that meets the current geometric and construction standards required for the types and volume of traffic that the facility will carry over its design life.
- *Construction phase* defined – No funds may be used for repair or reconstruction of a bridge if the construction phase of a replacement structure is included in a State's approved transportation improvement program at the time of the event.

7. PROGRAM FEATURES

Changes to the ER program include the following:

- The State's application for ER funds must include a comprehensive list of all eligible project sites and repair costs within 2 years after the event.
- The \$100 million cap on obligations in a State for a single event is removed.
- Tribal transportation facilities, Federal lands transportation facilities, and other Federally-owned roads open to public travel are eligible for ER funding.

N. STATE INFRASTRUCTURE BANK PROGRAM

States that established SIBs authorized by the NHS Designation Act and TEA-21 may continue to operate those SIBs. Florida's federal State Infrastructure Bank was established under this prior legislation.

Florida has both a federally funded account and a state funded account within the State Infrastructure Bank. For additional information on Florida's SIB, see the SIB Chapter in Part III of these Instructions.

1. STATUTORY REFERENCES

SAFETEA-LU Section: 1602

Other: 23 USC 610

There is no change to the SIBs provisions (23 U.S.C. 610) in MAP 21. However, it is important to note that States with existing Federal SIBs may continue to operate but **cannot capitalize the SIB with FFY 2013 or FFY2014 highway funding.** MAP 21 does not include the authority for States to capitalize a SIB using Federal-aid highway funding beyond the expiration of the final SAFETEA-LU extension.

2. ELIGIBLE USE OF FUNDS

SIBs provide various forms of non-grant assistance to public or private entities for eligible projects, including below-market rate subordinate loans, interest rate buy-downs on third party loans, and guarantees and other forms of credit enhancement. Any debt issued or guaranteed by the SIB must be of investment grade quality.

Projects eligible under Title 23, United States Code, capital projects as defined in section 5302 of Title 49, United States Code and any other projects related to surface transportation that the USDOT Secretary determines to be appropriate are eligible for assistance from the SIBs.

Both the initial credit assistance funded with Federal capitalization grants, including the required non-Federal match, and any assistance funded with loan repayments and other recycled funds are subject to the requirements of Titles 23 and 49, as applicable.

O. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT (TIFIA)

1. PROGRAM PURPOSE

The Transportation Infrastructure Finance and Innovation Act (TIFIA) Program provides Federal credit assistance to eligible surface transportation projects, including highway, transit, intercity passenger rail, some types of freight rail, and intermodal freight transfer facilities. The program is designed to fill market gaps and leverage substantial private co-investment by providing projects with supplemental or subordinate debt.

2. STATUTORY CITATION(S)

MAP-21 §2002; 23 USC 601-609

3. FUNDING FEATURES

Funded by contract authority and reimbursed from the Highway Account of the Highway Trust Fund, to remain available until expended. Funds are subject to the overall Federal-aid obligation limitation.

4. PROGRAM PRODUCTS

The TIFIA credit program may provide to States (including D.C. and Puerto Rico), localities, or other public authorities, as well as private entities undertaking projects sponsored by public authorities, three types of financial assistance:

- *Secured loans* are direct Federal loans to project sponsors offering flexible repayment terms and providing combined construction and permanent financing of capital costs.
- *Loan guarantees* provide full-faith-and-credit guarantees by the Federal Government to institutional investors, such as pension funds, that make loans for projects.
- *Lines of credit* are contingent sources of funding in the form of Federal loans that may be drawn upon to supplement project revenues, if needed, during the first 10 years of project operations.

MAP-21 also newly authorizes "master credit agreements," under which DOT may make a contingent commitment of future TIFIA assistance (subject to the availability of future funding) for a program of projects secured by a common revenue pledge.

5. FEDERAL SHARE

TIFIA credit assistance may cover the following portions of the total cost of a project:

- *TIFIA line of credit*: up to 33%
- *TIFIA loan*: up to 49% (or, if the loan does not receive an investment grade rating, up to the amount of senior project obligations)
- *TIFIA loan and TIFIA line of credit, combined*: up to 49%
- *Total Federal assistance (grants and loans) to a project receiving a TIFIA loan*: up to 80%

6. ELIGIBLE ACTIVITIES

Most types of projects retain their previous TIFIA eligibility:

- Projects eligible for assistance under title 23 or chapter 53 of title 49.
- International bridges and tunnels.
- Intercity passenger bus or rail facilities and vehicles, including those owned by Amtrak.
- Public freight rail projects.
- Private freight rail projects that provide public benefit for highway users by way of direct highway-rail freight interchange (a refinement of the SAFETEA-LU eligibility criterion).
- Intermodal freight transfer facilities.
- Projects providing access to, or improving the service of, the freight rail projects and transfer facilities described above.
- Surface transportation infrastructure modifications necessary to facilitate direct intermodal interchange, transfer and access into and out of a port.

To receive TIFIA assistance, a project must have costs that equal or exceed at least one of the following:

- \$50 million;
- for a rural infrastructure project (as defined below), \$25 million;
- for an intelligent transportation system (ITS) project, \$15 million; or
- 1/3 of the most recently-completed federal fiscal year's formula apportionments for the State in which the project is located.

Multiple related TIFIA-eligible projects may be grouped in order to meet one of these cost thresholds as long as the projects' credit assistance is secured by a common pledge. [23 USC 601(a)(12)(D)(iv)]

7. RE-FINANCING

MAP-21 continues the ability to use TIFIA to refinance an earlier TIFIA interim construction loan, or to refinance existing project debt in order to provide additional funding capacity for TIFIA-eligible projects.

8. OTHER PROVISIONS

a. Application process

MAP-21 requires DOT to establish a rolling application process for providing TIFIA credit assistance to eligible projects on terms acceptable to DOT.

b. Repayment of Federal assistance

TIFIA assistance must be repaid through dedicated revenue sources that secure project obligations, such as tolls, other user fees, or payments received under a public-private partnership agreement. Repayment of a TIFIA loan must begin by five years after the substantial completion of the project, and the loan must be fully repaid within 35 years after the project's substantial completion or by the end of the useful life of the asset being financed, if that life is less than 35 years.

c. Provisions related to rural projects

- "Rural infrastructure project" is defined as a surface transportation project not located in a city with a population of more than 250,000 within the city limits.
- Of the total amount authorized for TIFIA in a federal fiscal year, not more than 10 percent shall be set aside for rural infrastructure projects.
- Loans to rural infrastructure projects under this set aside (for either new financing or refinancing of an existing Federal credit instrument) are at ½ the Treasury interest rate.

d. Investment grade rating

Debt senior to the Federal credit instrument (or the Federal credit instrument, if *it* is the senior debt) must generally receive an investment-grade rating from at least two rating agencies.

e. Non-subordination

In most cases a TIFIA loan may not be subordinated to other debt in the event of project bankruptcy, insolvency, or liquidation. However, TIFIA loans may be subordinated in some circumstances in which a public agency has outstanding senior bonds under a preexisting indenture.

f. Limited buy-downs

MAP-21 allows project sponsors to "buy down" their TIFIA interest rate if that rate has increased between the date of submission of a project application and the execution of the TIFIA agreement.

g. Funding redistribution

Each April 1 (beginning in 2014), DOT will distribute among the States any remaining unobligated and uncommitted TIFIA balance in excess of 75% of the amount authorized for TIFIA for that federal fiscal year.

9. WPA PROGRAMMING

Projects will not be programmed with TIFIA funds until an approved federal award is given.

Use fund code **TIFI** and allocation type 1 on the projects programmed using TIFIA funds.

The payback of TIFIA funds should be programmed using a phase of A8 and program number 85. No federal funds should be programmed on this phase. TIFI fund code should not be listed on the payback phase. The payback schedule should be in the application package. The amounts programmed for the payback of TIFIA funds must match the payback schedule.

TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION PROGRAM.—For credit assistance under the transportation infrastructure finance and innovation program under chapter 6 of title 23, United States Code—

- \$750,000,000 for federal fiscal year 2013
- \$1,000,000,000 for federal fiscal year 2014

PART IV - CHAPTER 2: FINANCIAL PROVISIONS

A. FEDERAL OBLIGATION LIMITATION (A.K.A OBLIGATION AUTHORITY)

1. PURPOSE

Overall, the methodology for the obligation limitation distribution calculations under MAP-21 is very similar to the methodology under SAFETEA-LU. Section 1102 of MAP-21 contains provisions related to the distribution of obligation limitation. Note, however, that the obligation limitation levels and distribution methodology in section 1102 of MAP-21 are subject to the obligation limitation provisions in an appropriations act or continuing appropriations resolution that is enacted.

In section 1102(a), MAP-21 sets the overall obligation limitation at \$39.699 billion for FY 2013 and \$40.256 billion for FY 2014.

Section 1102(b) of MAP-21 lists the funding that is exempt from the obligation limitation. Of new contract authority, funding for the Emergency Relief Program in the amount of \$100 million and a portion of National Highway Performance Program (NHPP) funding are exempt from the obligation limitation. A national total of \$639 million in NHPP funds is exempt from the obligation limitation for each federal fiscal year, with each State's share of the exempt NHPP funds proportional to that State's overall share of NHPP funds.

Under the distribution process in section 1102(c) of MAP-21, limitation is first provided for administrative expenses and programs authorized under section 104(a) of title 23, the Bureau of Transportation Statistics, and unobligated balances of funding for allocated programs (or for the apportioned Tribal Transportation Program and Federal Lands Access Program) carried over from previous federal fiscal years.

The remaining limitation is then compared to the total remaining new authorizations of contract authority subject to the limitation for the federal fiscal year. This is known as the limitation ratio. The limitation ratio is used to distribute obligation limitation for each of the allocated programs (other than those allocated programs for which obligation limitation has already been provided) and for the Tribal Transportation Program and the Federal Lands Access Program. The amount of obligation limitation provided for each program is determined by multiplying the amount of contract authority authorized for the program for the federal fiscal year by the limitation ratio.

The remaining balance of the limitation is then distributed among the States as formula obligation limitation with each State's portion of the limitation being based on the State's relative share of the total apportioned funds (subject to limitation) for the federal fiscal year.

All of the obligation limitation under section 1102 of MAP-21 is available for one federal fiscal year, except that the limitation distributed for transportation research programs is available for four federal fiscal years.

2. AUGUST REDISTRIBUTION

The redistribution of obligation limitation after August 1 (August Redistribution) under MAP-21 works in the same manner as August Redistribution under SAFETEA-LU. The August Redistribution process ensures that all one-year obligation limitation for a federal fiscal year will be utilized prior to its expiration at the end of the federal fiscal year.

After August 1 of each federal fiscal year, the USDOT Secretary will revise the distribution of obligation authority made available if a State does not plan to obligate the amount distributed during that federal fiscal year. The amount returned will be redistributed as formula obligation limitation to those States able to obligate amounts in addition to those previously distributed during the federal fiscal year.

B. FEDERAL HIGHWAY TRUST FUND AND TAXES

1. STATUTORY REFERENCES

- MAP-21 - Moving Ahead for Progress in the 21st Century, Public Law 112-141, Division D—Finance

MAP-21 extends the ability to collect taxes into the Highway Trust Fund, expend out of the Highway Trust Fund to reimburse States, and to receive transfers as necessary to remain solvent.

- Title I—Extension of Highway Trust Fund Expenditure Authority and Related Taxes
 - 40101. Extension of trust fund expenditure authority.
 - 40102. Extension of highway-related taxes.
- Title II—Revenue Provisions
 - 40201. Transfer from Leaking Underground Storage Tank Trust Fund to Highway Trust Fund
 - 40251. Additional transfers to Highway Trust Fund
- Other: 26 USC; 1362 of Energy Policy Act of 2005

C. USE OF TOLL CREDITS TOWARD NON-FEDERAL SHARE (SOFT MATCH)

Section 120 of Title 23, U.S.C., permits a state to use certain toll revenue expenditures as a credit toward the non-Federal matching share of all programs authorized by Title 23, (with the exception of Emergency Relief Programs) and for transit programs authorized by Chapter 53 of Title 49, U.S.C. This is in essence a "soft-match" provision that allows the federal share to be increased up to 100% to the extent credits are available.

Effective July 1, 2011, all FHWA funded highway programs except for the Emergency Relief Program will be "soft matched." Soft Match credits earned in previous years and those earned in future years will be used to avoid the state-matching portion on projects funded within these programs. Each eligible federal-aid project that will be soft-matched will be funded at 100% federal-aid up to the funds available. Note that there are usually some non-participating costs that may need to be funded by state or local funds. These should be shown as associated funds in the Federal Authorization Management System.

A portion of soft-match credits will also be used to fund the state or local share on transit projects managed by local transit agencies. The Central Public Transit Office should be contacted for more information on using soft match credits for transit projects.

D. ADVANCE CONSTRUCTION PROGRAM

1. PROGRAM PURPOSE

Under the conditions provided in 23 U.S.C. 115 , and discussed in more detail in 23 CFR 630G, "Advance Construction of Federal-Aid Projects," a State may request and receive approval to construct projects in advance of the apportionment of authorized Federal-aid funds. The project must meet all the normal federal requirements, as if it were being financed with federal funds. Like other projects using federal funds, the project must have an approved federal authorization prior to advertising or work commencing in order to be eligible for conversion to federal funds at a later date.

For additional information on FDOT's use of the federal Advance Construction Program, see Part III, Chapter 1, Section E of these instructions.

2. STATUTORY REFERENCES

23 U.S.C. 115

23 CFR 630G

3. FUNDING

The total amount that may be advance constructed will be limited as follows: The Federal share of all advance construction projects (amount not converted to Federal-aid) cannot exceed the sum of the State's current unobligated balance of apportionments plus the amount of Federal funds anticipated in the subsequent federal fiscal years of an approved STIP.

4. CONVERSIONS

An existing advance construction project may be converted to a regular Federal-aid project at any time provided that sufficient Federal-aid funds and obligation authority are available.

The State may request a partial conversion where only a portion of the Federal share of project costs is obligated and the remainder may be converted at a later time provided funds are available.

Only the amount converted is an obligation of the Federal Government.

5. ELIGIBLE USE OF FUNDS

Any project eligible for federal participation under Title 23, U.S.C., is eligible for Advance Construction. Conversion may be to any category of funds for which the project is eligible.

6. FEDERAL SHARE

The federal share is only applicable upon conversion to a regular federal fund.

E. TRANSFERRING FEDERAL FUNDS

MAP-21 continued the same provisions for flexible funding that were one of the hallmarks of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) that was continued under the 1998 Transportation Equity Act for the 21st Century (TEA-21) and under the SAFETEA-LU. These flexible funding provisions enable State and local governments, transit operators, and metropolitan planning

organizations to more effectively meet their unique needs, and facilitate a multimodal approach to meeting transportation needs at both the statewide and metropolitan levels. The flexibility provisions of these transportation acts include:

- Broad highway/ transit eligibility within selected categories of major highway and transit programs
- Transfer of funds within the Federal-aid highway program to other programs with broader highway/transit eligibility; and
- Transfer of funds from FHWA to Federal Transit Administration (FTA) and vice versa.

1. TRANSFERS FROM ONE FEDERAL-AID HIGHWAY PROGRAM TO ANOTHER

If funds are transferred from one Federal-aid highway program to another, those funds then have the same eligibility as the program that they are transferred to. For example, Interstate Maintenance (IM) funds transferred to the Surface Transportation Program (STP) would have the same eligibility as STP funds.

2. INTERAGENCY TRANSFERS

Following are a few important points to keep in mind when considering interagency transfers:

- Funds transferred to or from FHWA or FTA can be used only for purposes eligible under the original program that the funds are transferred from.
- Funds that are transferred from FHWA to FTA shall be administered under the requirements of the Chapter 53 of title 49, U.S.C. and funds transferred from FTA to FHWA shall be administered under the requirements of title 23, U.S.C., except that the non-Federal share for the original source of the funding applies to the transferred funds (see 23 U.S.C. §104(k) and 49 U.S.C. §5334(h)).
- For transit capital projects funded with National Highway System (NHS) funds under 23 U.S.C. 103(b)(6)(C) or STP funds under 23 U.S.C. 133(b)(2), applicable Chapter 53 statutory requirements (e.g., Employee protective arrangements (49 U.S.C. 5333(b)), Charter bus transportation services (49 U.S.C. 5323(d)), etc.) must be complied with even if the funds are not transferred to FTA for administration under Chapter 53. If the funds will be administered by the FHWA for such capital projects, the FHWA Division should work with the FTA Regional Office to determine which Chapter 53 provisions apply and how.
- To transfer funds from FHWA to FTA, the State transportation department must request that the funds be transferred, with the concurrence of the Metropolitan Planning Organization (MPO) if the project is within a metropolitan planning area, in a letter to the FHWA Division Office.
- In a Transportation Management Area (TMA), the MPO may elect to transfer portions of its FTA Section 5307 funds that cannot be used for operating assistance to FHWA for highway projects subject to the requirements of 49 U.S.C. §5307(b)(2).
- To transfer 49 U.S.C. §5307 funds from FTA to FHWA, the MPO must submit a request to the FTA Regional Office with a certification that: (1) Americans with Disabilities Act (ADA) needs have been met, (2) notice and opportunity for comment and appeal have been provided to affected transit providers, and (3) local funds used for the non-federal match are eligible to provide assistance for either highway or transit projects.
- Funding transfers are permitted only for projects contained in an approved metropolitan transportation improvement program (TIP) and/or statewide transportation improvement program (STIP).

3. FDOT PROCESS TO TRANSFER FUNDS FROM FHWA TO FTA

The Federal Aid Management Office sends out a quarterly email to the District Federal Aid Coordinators requesting all FTA transfers anticipated to be needed for the next quarter (three

months). The District must submit the following required information to their District Representative in the Federal Aid Management Office for an FTA transfer to be processed:

- Work program financial project number
- FTA grant recipient name and grant number
- Federal Appropriation Category
- STIP page number where the project is listed
- Project Description

- Amount of requested transfer

A Transfer Request Form will be prepared by the Federal Aid Management Office requesting FHWA to transfer the funds to FTA. Districts will be notified by email when the transfers are complete.

Documentation is required to confirm the correct FTA Grant Number. Districts shall provide documentation as shown in the SAMPLE on the next page for each grant for which funds are requested to be transferred.

4. TRANSFER OF FHWA FUNDS TO FTA FOR ITS PROJECTS

FTA has provided the following information on this process:

- The applicant electronically submits earmark integration application as directed in the earmark guidance document.
- The application goes to FHWA and if it's determined to be a transit project, the application is forwarded to FTA's regional office for the initial review.
- Then the application comes to this office (FTA's Headquarters ITS office for secondary review), and sometimes additional clarification of certain portions of the application may be necessary.
- If all looks well, the application is approved for further processing and an e-mail is sent to FTA's regional offices stating that project is approved and the transfer of funds process will now begin.
- Next, this office requests that FHWA/ITS-JPO transfer the fund to FTA Headquarters. We, in turn, request that the FTA Regional Offices provide TEAM a project number so that FTA's Headquarters budget office can transfer funds to the appropriate project in the regional offices once the funds are received from FHWA. A small percentage of the time, some projects are managed at FTA Headquarters.
- The review and transfer of funds does not happen quickly. But review and approval of the application, and transfer of funds does happen as quickly as we can get everything processed.

SAMPLE DOCUMENTATION FOR FTA TRANSFER

DOT



FTA

U.S. Department of
Transportation

Federal Transit Administration

Application for Federal Assistance

Recipient ID:	5454
Recipient Name:	SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY
Project ID:	FL-90-X394-04
Budget Number:	6 - Budget Pending Approval
Project Information:	Double Track Project - Segment 5

Part 1: Recipient Information

Project Number:	FL-90-X394-04
Recipient ID:	5454
Recipient Name:	SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY
Address:	800 NW 33rd Street Suite 100, Pompano Beach, FL 33064 0000
Telephone:	(954) 942-7245
Facsimile:	(954) 788-7878

Part 2: Project Information

Project Type:	Grant	Gross Project Cost:	\$12,500,000
Project Number:	FL-90-X394-04	Adjustment Amt:	\$0
Project Description:	Double Track Project - Segment 5	Total Eligible Cost:	\$12,500,000
Recipient Type:	Other Governmental Organization	Total FTA Amt:	\$10,000,000
FTA Project Mgr:	Christopher White	Total State Amt:	\$2,500,000
Recipient Contact:	Michael Williams	Total Local Amt:	\$0
New/Amendment:	Amendment	Other Federal Amt:	\$0
Amend Reason:	Increase Award	Special Cond Amt:	\$0
		Special Condition:	None Specified
Fed Dom Asst. #:	20507	S.C. Tgt. Date:	None Specified
Sec. of Statute:	5307	S.C. Eff. Date:	None Specified

5. TRANSFER PROVISIONS BY PROGRAM CATEGORY

The tables below show which Federal-aid highway programs have eligible transit activities and those programs that do not, but where funds may be transferred to another program that does have such

eligibility. These tables also list Federal transit programs that may be used for highway related activities.

FHWA and FTA Funds That May be Used for Either Highway or Transit Purposes

Federal Highway Administration Programs			
Primary Purpose	Eligible Transit Activities	Transfer Among Title 23 Programs	Interagency Transfer Considerations
<i>Metropolitan Planning (PL) (23 U.S.C. 104(f))</i>			
To carry out the metropolitan transportation planning process under 23 U.S.C. 134.	49 U.S.C. 5303 metropolitan transportation planning process	None.	May be transferred to FTA at the request of the State DOT to be combined with 49 U.S.C. 5305(d) metropolitan planning funds as a consolidated planning grant.
<i>Statewide Planning & Research (SPR) (23 U.S.C. 505)</i>			
Highway and transit planning; statewide transportation planning under 23 U.S.C. 135; metropolitan transportation planning under 23 U.S.C. 134.	49 U.S.C. 5305 statewide transportation planning process; public transportation management systems under 23 U.S.C. 303.	None.	SPR funds for planning may be transferred to FTA at the request of the State DOT to be combined with 49 U.S.C. 5305(e) statewide planning funds as a consolidated planning grant. The 25% of SPR funds that can only be used for RD&T may not be transferred.
<i>National Highway System (NHS) (23 U.S.C. 103)</i>			
Improvements to rural and urban roads that are part of the NHS or that are NHS Intermodal connectors.	Transit improvements within a NHS corridor, subject to statutory conditions set in 23 U.S.C. 103 (b)(6)(C); transportation planning in accordance with 23 U.S.C. 134 & 135; fringe and corridor parking facilities; carpool and vanpool projects; public transportation management systems under 23 U.S.C. 303; publicly owned intracity and intercity bus terminals.	Up to 50% of funds may be transferred to CMAQ, STP, HSIP, RTP, and/or HBRRP. Up to 100% of NHS funds may be transferred to STP if approved by the USDOT Secretary and if sufficient notice and opportunity for public comment is given.	May be administered by FHWA or may be transferred to FTA for transit projects eligible for NHS funds under 23 U.S.C. 103(b)(6).
<i>Surface Transportation Program (STP) (23 U.S.C. 133)</i>			
Construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways and bridges including	Capital costs of transit projects that are eligible under Ch. 53 of 49 U.S.C., including vehicles and facilities, publicly or privately owned, that are used to provide intercity bus service; carpool projects and fringe & corridor parking facilities; transit safety infrastructure	Up to 50% of the STP funds may be transferred to NHPP, CMAQ, HSIP, , RTP, and/or HBRRP, except that funds suballocated under 23 U.S.C. 133(d)(3) for use in areas of a State	May be administered by FHWA or may be transferred to FTA for transit projects eligible for STP funds under 23 U.S.C. 133(b).

construction or reconstruction necessary to accommodate other transportation modes.	improvements and programs; transit research, development and technology transfer; surface transportation planning programs; public transportation management systems under 23 U.S.C. 303.	may not be transferred to other 23 U.S.C. programs.	
Highway Safety Improvement Program (HSIP) (23 U.S.C. 148)			
To achieve a significant reduction in traffic fatalities and serious injuries on public roads.	No direct transit uses.	Up to 50% of HSIP funds apportioned under 23 U.S.C. 104 may be transferred to NHS, CMAQ, STP, IM, RTP, and/or HBRRP; the annual set-aside for 23 U.S.C. 130, Rail-highway crossings, may not be transferred.	Must first be transferred to another 23 U.S.C. program that has transit eligibility before the funds may be transferred to FTA.
Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. 149)			
Projects in non-attainment and maintenance areas that reduce transportation related emissions.	Transit capital projects and operating expenses for new services. Operating assistance is limited to new or expanded transportation services and to 3 years. Funds may only be used in nonattainment and maintenance areas and projects must demonstrate an air quality benefit. States without nonattainment or maintenance areas may use their minimum apportionment of CMAQ for any project in the State eligible under either CMAQ or STP.	An amount not to exceed 50 percent of the difference between the State's annual apportionment and the amount the State would have received if the CMAQ program was authorized at \$1.35 billion for that year may be transferred to Up to 50% of funds may be transferred to NHS, STP, IM, HSIP, RTP, and/or HBRRP. Funds transferred to other title 23 programs must still be expended within the State's nonattainment or maintenance areas.	May be administered by FHWA or may be transferred to FTA for transit projects eligible for CMAQ funds under 23 U.S.C. 149(b).

Federal Lands Highways Program (FLHP) (23 U.S.C. 204)			
Coordinated program of public roads and transit facilities serving Federal and Indian lands. Funding is broken into 4 discrete sources: Indian Reservation Roads (IRR); Public Lands Highway – Discretionary & Forest Highways; Parkways & Park Roads; Refuge Roads	May be used for transit facilities within, adjacent, or providing access to public lands, national parks, national forests, refuge roads, and Indian reservations. Refuge roads category funds may not be used for new construction	None.	May be administered by FHWA or may be transferred to FTA for transit projects eligible for FLH funds under 23 U.S.C. 204(h).

	and transit.		
Recreational Trails Program (RTP) (23 U.S.C. 206)			
Develop and maintain recreational trails and trail-related facilities for both non-motorized and motorized recreational trail uses.	No direct transit uses.	Up to 50% of funds may be transferred to NHS, CMAQ, STP, HSIP, and/or HBRRP, subject to approval of the State agency administering the RTP.	Cannot be transferred to FTA.

Coordinated Border Infrastructure Program (CBIP) (S-LU Section 1303)			
To improve the safe movement of motor vehicles at or across the border between the United States and Canada and the border between the United States and Mexico.	Improvements to existing transportation and supporting infrastructure that facilitate cross-border vehicle movements (for highway or transit projects).	None.	Cannot be transferred to FTA.

Nonmotorized Transportation Pilot Program (S-LU Sec. 1807)			
To demonstrate the extent to which bicycling and walking can carry a significant part of the transportation load, and represent a major portion of the transportation solution, within 4 identified communities.	Sidewalks, bicycle lanes, and pedestrian and bicycle paths that connect directly to transit stations.	None.	Cannot be transferred to FTA.

Federal Transit Administration Programs			
Primary Purpose	Eligible Highway Categories	Transfer Among Title 49 Programs	Interagency Transfer Considerations
Metropolitan Planning Program (MPP) (49 U.S.C. 5305(d))			
To carry out the metropolitan transportation planning process under 49 U.S.C. 5303.	23 U.S.C. 134 metropolitan transportation planning process	None.	May be transferred to FHWA at the request of the State DOT to be combined with 23 U.S.C. 104(f) metropolitan planning funds as a consolidated planning grant; FHWA matching ratio may be used for MPP funds in a consolidated planning grant (CPG).
Statewide Planning & Research (SPR) (49 U.S.C. 5305(e))			
To carry out the provisions of 49 U.S.C. sections 5304, 5306, 5315, and 5322.	23 U.S.C. 135 statewide transportation planning process.	None.	SPR funds for state planning may be transferred to FHWA at the request of the State DOT to be combined with 23 U.S.C. 505 statewide planning funds as a consolidated planning grant FHWA matching ratio may be used

			for SPR funds in a consolidated planning grant (CPG)..
<p>Urbanized Area Formula Grants (Section 5307) Transit capital and planning assistance to urbanized areas with populations over 50,000 and operating assistance to areas with populations of 50,000 - 200,000.</p>	<p>In a Transportation Management Area, the MPO may elect to transfer portions of its FTA Section 5307 (Urbanized Area Formula Grants) funds that cannot be used for operating assistance to FHWA for highway projects subject to the requirements of 49 U.S.C. 5307(b)(2).</p>	<p>Funds apportioned to the Governor under Section 5307 may be transferred to the Nonurbanized Formula Program (Section 5311).</p>	<p>FTA funds must be transferred to FHWA if they are to be used for highway purposes. Only funds in designated TMAs (urbanized areas with population 200,000 and greater) that cannot be used for operating assistance may be made available for highway projects.</p>

Beginning in FY 2007, FTA is requiring flexed fund transfers to be in separate and identifiable grants in order to ensure the draw down of flexed funds can be tracked and that liquidating cash can be secured from the Federal Highway Administration to avoid deficiencies in the Formula and Bus Grants account. FHWA planning funds transferred to Consolidated Planning Grants (CPG) within FTA will be transferred separately from FHWA “flex fund” transfers and use the methodology established in FY 2006. CPG funds can only be combined with FTA’s FY 2006 or FY 2007 funds.

The following guidance was provided by FTA for transfers beginning in FY 2007:

- Beginning with 2007 Highway Flex Fund transfers: You **cannot** mix flex funds with 1) earlier flex funds (those transferred in previously years) or 2) FTA funds of any year.
- Flexed funds transferred to the Urbanized Area Program - 2007.45.95.(CX or SX).2 **cannot** be combined with FTA Urbanized Area Program (sec 5307) funds coded: 2007.25.90.91.2 for any year.
- Flexed funds transferred to the Non-urbanized Area Program - 2007.45.85.(CX or SX).2 **cannot** be combined with FTA Non-urban Area Program (sec 5311) funds coded 2007.25.18.81.2 for any year.
- Flexed funds transferred to the Elderly and Persons with Disabilities Programs – 2007.65.(CX or SX).2 **cannot** be combined with FTA Elderly and Persons with Disabilities funds coded 2007.25.16.00.2 for any year.
- CMAQ and STP can be in the same grants if transferred to the same program section 5307 “95,” or section 5310 “65,” or section 5311 “85.”
- Flex funds transferred in FY 2006 (2006.25.90.(CX or SX).2 **cannot** be combined with flex funds transferred in FY 2007 (2007.45.95.CX or SX).2.
- FY 2004 and FY 2005 FTA or flex funding **cannot** be combined with FTA funds or Flex funds of any year after FY 2005.
- All flexed funds transferred in FY 2007 must be in new grants with the new appropriation code 45 and section code 65 for Elderly and Disabled, 85 for Non-urban formula, 95 for urban area formula or 55 for Bus and bus related.

Urbanized Area Formula Flex:

2007.45.95.CX.2 (CMAQ)

2007.45.95.SX.2 (STP)

2007.45.95.EX.2 (Other)

Example project #: AL-95-X001

Non-urbanized Area Formula Flex:

2007.45.85.CX.2 (CMAQ)

2007.45.85.SX.2 (STP)

2007.45.85.EX.2 (Other)

Example project #: AL-85-X001

Elderly / Disabled Flex:

2007.45.65.CX.2 (CMAQ)

2007.45.65.SX.2 (STP)

2007.45.65.EX.2 (Other)

Example project #: AL-65-X001

Transfers to Bus Program:

2007.45.55.EX.2

Example project #: AL-55-0001

- FHWA planning funds transferred to FTA as Consolidated Planning Grants (CPG) will be coded similar to FY 2006.
- CPG transferred in FY 2007 can be combined with FTA and/or FHWA FY 2006 or later funds.
- CPG funds transferred **cannot** be combined with funds transferred in FY 2005 or prior years.
- FY 2007 funds will be coded as 2007.25.81.MM.2 for Metropolitan Planning or 2007.25.81.SS.2 for Statewide Planning funds.

Pool Fund Transfers and Transfers to Other Agencies (other than Federal Transit Administration)

The Transportation Pooled Fund (TPF) Program has existed for more than 20 years and is a popular means by which the states, commercial entities, and FHWA program offices can combine resources to achieve common research goals. Pooling resources reduces marginal costs, provides efficient use of taxpayer dollars, and provides greater benefits to participating interests compared to individual entities contracting on their own. The program developed through ad hoc processes until 1999 when FHWA led a workshop to “Reengineer the TPF Program”. This led to development of a web site for managing solicitations, for participant pledging, and for TPF progress reporting. With many of the coordinating issues addressed and because of increasing use of the TPF Program, awareness of other issues emerged including policy, fiscal, and collaboration tools.

In Florida, the program is generally administered through the Department’s Research Center, in Central Office. In accordance with the Transportation Pooled Fund accounting procedures established by Federal Highway Administration, Office of the CFO in November 2007, transfers are no longer accomplished through the Federal Authorization Management System (FAMS) and transmitted to FHWA’s Fiscal Management Information System (FMIS) through a traditional project authorization. The work program estimate should be set up with an allocation type 6 – transfer and the box item reduced accordingly. A transfer form will be completed by the Research Center staff in accordance with the information published on www.pooledfund.org for projects that the Department has committed to participate in and submitted to the Federal Aid Management Office (FAMO).

There are two FHWA Forms for transferring funds to a Lead Agency. Form FHWA 1575 is used to transfer funds to a State that is a lead agency. Form FHWA 1576 is used to transfer funds to FHWA as the lead agency. Both forms are available from the www.pooledfund.org website.

Once the form is submitted to FAMO, it is checked for accuracy, maximization of the oldest fund, signed and processed for further handling to FHWA. The Florida Division reviews the request and submits it to Headquarters. Once processed, the FMIS team adjusts the account balance and limitation data accordingly. Each morning, FAMO performs reconciliation and will bypass a transaction through FAMS so that the record is processed in work program to be shown as authorized and as a use of funds on the Production Accomplishment Report (PAR).

Federal Aid Numbers Assigned with Route Identifiers such as NPST (National Park Service Transfer) and USFW (United States Fish and Wildlife) have also been processed on a very limited basis to perform similar transactions in accordance with the Anti-deficiency Act. For information, please contact the Federal Aid Management Office. This process requires a special tri-party agreement and District USDOT Secretary signature.

F. FEDERAL INDIRECT COSTS

The Florida Department of Transportation has elected to state fund indirect costs. Projects which would have otherwise been eligible for federal participation will have indirect generated to DIOH with an OH distribution area. All indirect estimates should be associated to the relevant federal aid project in the Federal Aid Management System (FAMS) to reflect total project cost.

G. INACTIVE FEDERAL PROJECTS

Title 23 Code of Federal Regulations (CFR) 630 Subpart A, Project Authorization and Agreements, requires a quarterly review of inactive projects and revision of Federal funds to reflect the current cost estimate within 90 days based on the following criteria:

- Projects inactive for the past 12 months with unexpended balances of more than \$500,000,
- Projects inactive for the past 24 months with unexpended balances of \$50,000 to \$500,000, and
- Projects inactive for the past 36 months with unexpended balances less than \$50,000.

The review of inactive projects is part of FHWA's Financial Integrity Review and Evaluation (FIRE) Program. A report of the inactive projects, called the FIRE Report, is posted to the Office of Work Program's Sharepoint site quarterly. The FHWA Division Office shall work with the State to determine the validity of the amount obligated for each project. The FHWA will issue a Notice of Intent to Deobligate based on the review. The State shall be given an opportunity to respond before any action is taken to deobligate projects. The FHWA shall not adjust obligations without a State's consent during the August redistribution process, August 1 to September 30.

The following information regarding the FIRE Program for inactive projects can be found on the Office of Work Program Sharepoint site:

- The Financial Integrity Review and Evaluation (FIRE) Process for the review of inactive projects (under Documents-Federal Aid Management).
- The FIRE Report Schedule outlining the activities and due dates (under Documents-Federal Aid Management).

- The FIRE Report of inactive projects (under Applications/Reports-Work Program Applications-Federal Project Information).
- The Notice of Intent to Deobligate letters (under Documents-Federal Aid Management).

PART IV - CHAPTER 3: FEDERAL STEWARDSHIP

A. FHWA OVERSIGHT PROGRAM

Under Section 106(c) of Title 23, U.S.C., the State may, for certain types of projects, assume the responsibilities of the USDOT Secretary under this title for design, plans, specifications, estimates, contract awards, and inspections of projects, under certain conditions. This assumption of responsibilities FDOT assumes is set forth in the Partnership Agreement between FHWA and FDOT which addresses the administration of Federal-aid highway projects exempt from FHWA oversight.

The Partnership Agreement provides for a risk-based approach where FDOT and FHWA agree on how the Federal Aid Highway Program (FAHP) will be administered in Florida. The Partnership Agreement is the documentation of the delegations, under 23 U.S.C., Section 106, from direct Federal oversight that are desired and accepted by both FHWA and FDOT. Notwithstanding the Agreement, FHWA retains overall responsibility for all aspects of Federal-aid programs and an agreement does not preclude FHWA's access to and review of a Federal-aid project at any time and does not replace the provisions of Title 23, U.S.C.

The procedure for project selection is set forth in Topic No. 700-000-005, FDOT procedures, and can be downloaded at <http://www2.dot.state.fl.us/proceduraldocuments/procedures/bin/700000005.pdf>. Annually, during the period from July through September, FHWA and FDOT will negotiate which new projects will be selected for "full oversight" by FHWA. FHWA Transportation Engineers will coordinate the project selection with their assigned FDOT district office. The criteria for project selection are set forth in Section 1.3 of the procedure, "Selection of FHWA Oversight Projects".

FHWA will continue to be responsible for the oversight of applicable non-Title 23 U.S.C. requirements. All federally funded projects must comply with applicable non-Title 23 requirements. The requirements can be found in Section 1.4.4 "Non-Title 23 Responsibility" of the procedure.

B. USE OF FEDERAL FUNDS ON TOLLED ROADS, BRIDGES

The authority to toll new lanes on Interstates has been mainstreamed as an eligible activity under 23 U.S.C. 129 through MAP-21 § 1512 so long as the facility has the same number of toll-free lanes after construction as it did before (excluding HOV lanes and auxiliary lanes). The new statutory language of 23 U.S.C. 129(a) makes a number of significant changes to the program, including tolling eligibilities; requirements for tolling agreements; and requiring audits to ensure compliance with requirements on the use of toll revenues.

Tolling for initial construction of highways, bridges, and tunnels on the Interstate System is now permitted under Section 129(a)(1)(A). Prior to MAP-21, such authority was limited to non-Interstate facilities under Section 129. This change effectively mainstreams the Interstate System Construction Toll Pilot Program.

Highway funds may be obligated on toll roads, bridges, tunnels and ferries as provided for in Title 23 U.S.C. (Section 129). Under MAP-21, Section 129 agreements will no longer be statutorily required. For toll facilities that have executed Section 129 tolling agreements prior to October 1, 2012, the terms of those agreements will continue in force.

The purpose of the Section 129 Agreement is to provide that all toll revenues received from operation of the toll facility will be used first for debt service, for reasonable return on investment of any private person financing a project, and for the costs necessary for the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration and rehabilitation. If the state or local public authority certifies annually that the toll facility is being adequately maintained, any toll revenues in excess

of amounts required above may be used for any purpose for which federal funds may be obligated under Title 23 U.S.C.

1. VALUE PRICING PILOT PROGRAM

The Value Pricing Pilot Program (VPPP) was first authorized under the Section 1012(b)(8) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), and was subsequently amended under other laws, most recently in Section 1604(a) of SAFETEA-LU. MAP-21 does not make any changes to this program. While no additional funds are authorized after Federal fiscal year 2012 for the discretionary grant component of this program, FHWA's ability to enter into cooperative agreements for tolling projects under the VPPP will continue in force. Of the 15 slots authorized for this program, seven (including **Florida**) have been permanently reserved for States that have executed tolling cooperative agreements under the VPPP.

A number of congestion pricing strategies, including HOV to HOT conversion and the construction of priced express lanes, can now be accommodated under the Section 129 general tolling program and the Section 166 HOV/HOT lanes program. FHWA prefers that the two mainstream programs be used where possible as opposed to the pilot programs. As a result, requests for tolling authority under the VPPP will be limited to situations that cannot be accommodated under the mainstream tolling programs, such as the pricing of existing toll-free facilities without substantial reconstruction of those facilities.

2. COMPLIANCE AUDITS

The statutes authorizing the ISRRPP and ISCTPP programs require regular audits to ensure compliance with the limitations on the use of toll revenues, which must be transmitted to USDOT. Similar audit requirements have also been included in tolling agreements executed under the Section 129, Section 166, ELDP, and VPPP tolling programs. As noted above, Section 1512 of MAP-21 extends such audit requirements for facilities tolled under Section 129 or Section 166, specifying that such audits be conducted annually and establishing the authority of the USDOT Secretary to require that toll collection be discontinued if a public authority is found to be in noncompliance. (23 U.S.C. 129(a)(3)) FHWA Division Offices will be responsible for receiving the annual audits from the tolling operators and ensuring compliance with the statutory requirements. These audit requirements will be further addressed in forthcoming guidance.

3. TOLLING MEMORANDUM OF UNDERSTANDING

Although tolling agreements are no longer required under the mainstream tolling programs, State departments of transportation (or other public agencies with responsibilities for toll facilities) may wish to enter into a memorandum of understanding (MOU) with their FHWA Division Offices, particularly in light of the new requirements for audits and the potential consequences of noncompliance (including the discontinuation of toll collection). Suggested elements of the MOU could include establishing the eligibility for tolling a Federal-aid highway facility under Section 129 and outlining how the statutory requirements regarding the use of toll revenues, audits, and other Federal requirements will be met. A sample template for a tolling MOU is provided by FHWA:
<http://www.fhwa.dot.gov/map21/guidance/guidetoll.cfm#attachment1>

It is recommended that Division Offices consult with the Office of Innovative Program Delivery in developing tolling MOUs, in order to ensure that tolling program requirements and eligibilities are clearly understood by all parties.

C. FINANCIAL PLANS FOR MAJOR FEDERAL PROJECTS

MAP-21 continues the lower project size thresholds established in SAFETEA-LU (23 U.S.C. § 106(h)(1)) which lowered the threshold for increased FHWA oversight and financial reporting on MAJOR PROJECTS from \$1 billion to \$500 million. The FHWA also has the discretion to designate a project with a total cost of less than \$500 million as a Major Project. The FHWA may choose to do so in situations where the projects require a substantial portion of the State Transportation Agency (STA)'s program resources; have a high level of public or congressional interest; are unusually complex; have extraordinary implications for the national transportation system; or are likely to exceed \$500 million in total cost. A "project" would generally be defined as that work described in the environmental document with independent marginal utility between logical termini. A project could comprise several segments, and each segment could be constructed by one or more construction contracts. For the purposes of determining whether the project costs exceed \$500 million, FHWA will look at the total cost estimate for the project limits as set forth in the ROD or final environmental determination. An exception may exist if the "NEPA-defined" project scope is comprised of distinct and operationally independent phases. FHWA may determine that each separate, operationally independent and non-concurrent phase of construction be defined as separate "projects" for the purpose of assigning Major Project status. (Non-concurrent in this context means the phases of work will not be constructed at the same time, and the phase or phases that are scheduled for construction are not functionally dependent on those that have received NEPA approval but may or may not be constructed.) This determination will require careful judgment and an appreciation for how NEPA commitments will be delivered during the delivery of the NEPA-defined project scope. The Division Administrator will make this determination after consultation with the Major Projects Team (MPT) and the Office of Project Development and Environmental Review.

A Financial Plan is a comprehensive document which reflects the cost (requirement) and revenue structure (capability) of a project and provides a reasonable assurance that there will be sufficient financial resources available to implement and complete the project as planned. Identified funding shortfalls should be highlighted along with proposed resource solutions. The Financial Plan is designed primarily for use by the United States Department of Transportation (USDOT) to assist the USDOT in oversight responsibilities mandated by Federal law.

In essence, a Financial Plan provides a description of how a project will be implemented over time by identifying project costs and the financial resources to be utilized in meeting those costs. The plan should clearly explain the assumptions about both cost and revenue upon which the plan is based. In addition, the annual updates to the plan will enable decision makers to track the financial progress of the project over time by highlighting significant deviations from the Initial Financial Plan and the subsequent annual updates and explaining the mitigating actions taken to adjust for those deviations.

USDOT's Financial Plan Guidance for Major Projects presents an outline for the "Initial Financial Plan" and for the "annual updates" and is available at http://www.fhwa.dot.gov/ipd/project_delivery/resources/financial_plans/guidance.htm. MAP-21 did not change 23 USC 106(i), which required recipients of federal financial assistance for projects with a total cost of between \$100 million and up to \$500 million to prepare an annual financial plan. FHWA will not approve these financial plans but they will be subject to review. As part of its ongoing stewardship and oversight responsibilities, FHWA will need to assure that they were completed in accordance with Title 23 requirements for content and timeliness.

The Major or Other Project designation as determined by FHWA may extend beyond the adopted work program. The Financial Plan can only cover the commitments by FDOT and therefore is limited to the 5 year Adopted work program. As additional years are added from the tentative to the adopted, the Financial Plan should be updated to include those years. Adding additional work program items or amounts exceeding those reported in the Initial Financial Plan should be coordinated through the district

Director of Operations or Transportation Development Director as appropriate with coordination from OOC's Project Finance Office.

The Systems Planning Office, together with the Districts/Turnpike Enterprise, and the OWPB and OOC's Project Finance Office, will identify all known work program items associated with these projects. All items in the work program that are part of a these projects will be tracked with an Item Group identifier unique to that project.

On July 6, 2012, the President signed into law the new surface transportation act, Moving Ahead for Progress in the 21st Century (MAP-21) (Pub. L. 112-141). Changes to the requirements for a Financial Plan include a phasing plan when there are insufficient financial resources to complete the entire project and an assessment of a public-private partnership to deliver the project. These changes are contained in section 1503(a)(4) of MAP 21, which amends 23 U.S.C. 106(h). With these amendments, 23 U.S.C. 106(h) reads as follows:

1. MAJOR PROJECTS

- **In General** - Notwithstanding any other provision of this section, a recipient of Federal financial assistance for a project under this title with an estimated total cost of \$500,000,000 or more, and recipients for such other projects as may be identified by the USDOT Secretary, shall submit to the USDOT Secretary for each project
 - a project management plan; and
 - an annual financial plan, including a phasing plan when applicable.
- **Project Management Plan** - A project management plan shall document
 - the procedures and processes that are in effect to provide timely information to the project decision makers to effectively manage the scope, costs, schedules, and quality of, and the Federal requirements applicable to, the project; and
 - the role of the agency leadership and management team in the delivery of the project.
- **Financial Plan** - A financial plan
 - shall be based on detailed estimates of the cost to complete the project;
 - shall provide for the annual submission of updates to the USDOT Secretary that are based on reasonable assumptions, as determined by the USDOT Secretary, of future increases in the cost to complete the project;
 - may include a phasing plan that identifies fundable incremental improvements or phases that will address the purpose and the need of the project in the short term in the event there are insufficient financial resources to complete the entire project. If a phasing plan is adopted for a project pursuant to this section, the project shall be deemed to satisfy the fiscal constraint requirements in the statewide and metropolitan planning requirements in sections 134 and 135; and
 - shall assess the appropriateness of a public-private partnership to deliver the project.

2. ISSUANCE OF INTERIM GUIDANCE:

In response to the enactment of MAP-21, the Federal Highway Administration (FHWA) is issuing this interim guidance on the requirements for Major Project Financial Plans. Formal revisions to the existing 2007 Financial Plan Guidance to integrate more thorough implementation are underway and

will be issued at a later date. Until then, this interim guidance will amend the existing 2007 Financial Plan Guidance to incorporate the MAP 21 changes.

This interim guidance takes effect October 1, 2012, and applies to Financial Plans for Major Projects as defined by 23 U.S.C. 106(h) and for Other Projects as defined by 23 U.S.C. 106(i). Be aware there may be additional considerations and requirements for financial plans for multi-modal projects that would need to be coordinated with other relevant DOT modes such as FTA or FRA.

3. PHASING PLAN:

A phasing plan submitted to FHWA for approval under 23 U.S.C. 106(h)(3)(C) should include the following:

- A description of each phase, including scope, cost estimate, and schedule, as well as a completion date for the entire project. All cost estimate reviews will evaluate the cost estimate for each of the proposed phases to be identified in the Financial Plan.
- Documentation that each phase represents a portion of the project that can be opened to the public and that such portion can be effectively operated without any other phase being completed.
- Demonstration that funding has been identified and committed for the entire phase when construction funding for any portion of that phase is identified in the approved STIP at the time of the Financial Plan submittal.
- A discussion of how the phasing of the project is consistent with the NEPA decision document. This discussion should include how the purpose and need is addressed in the event only the funded phase is built. Phasing of the project should not conflict with the project's decisions or required mitigations identified and committed to in the NEPA decision document. The schedule associated with the phases in the Financial Plan should not substantially conflict with the schedules identified in the NEPA decision document.

Operational Independence and Non-Concurrent Construction (OINCC) requests after October 1 will only be approved by FHWA for major projects with subsequent phases under construction 20 or more years after the initial construction project begins. This determination will be made in accordance with existing OINCC guidance. For all other projects, the Financial Plan should include a phasing plan to address operational independent phases of construction.

4. P3 ASSESSMENT:

To implement 23 U.S.C. 106(h)(3)(D), FHWA will approve a Financial Plan only if an assessment of the appropriateness of a public-private partnership to deliver the project is included. All Initial Finance Plans submitted on or after October 1, whether or not a public-private partnership is expected to be used to deliver the project, must include this assessment.

To support the preparation of this assessment, beginning after October 1, all cost estimate reviews that are conducted prior to the issuance of the NEPA Decision Document will include a component to analyze the allocation of risk with respect to delivering the project through a public-private partnership procurement.

Since a public-private partnership can also be an effective financing method for the delivery of a major project, FHWA is undertaking efforts to determine when public-private partnerships should be considered during the planning process. This will be addressed in future guidance.

The assessment in the Financial Plan is expected to be brief and should include the following:

- Documentation of the results of the risk allocation analysis, if completed during the cost estimate review conducted prior to issuance of the NEPA Decision Document.
- A discussion of whether a public-private partnership or traditional procurement could more effectively leverage the revenue stream for the project, including the available debt capacity and cost of capital for both the public and private sector.
- A discussion of the current State-level legislative authorizations for public-private partnerships, including legislative authorizations regarding public sector debt capacity.
- A concluding statement regarding the appropriateness of a public-private partnership to deliver the project.

D. VALUE ENGINEERING ANALYSIS

Value Engineering (VE) is a systematic process of project review and analysis conducted during the concept and design phases by a multi-disciplined team not involved in the project. The process is to provide recommendations for:

- Providing the needed functions safely, reliably, and at the lowest overall cost
- Improving the value and quality of the project
- Reducing the time to complete the project

States are no longer required to provide a value engineering analysis or other cost-reduction analysis for Design-Build contract delivery.

See Department Procedure Topic No.: [625-030-002](http://www2.dot.state.fl.us/proceduraldocuments/procedures/bin/625030002.pdf), Value Engineering Program, for more detail.

Section 1503(a)(3) of MAP-21 essentially doubled the thresholds for the total cost of projects requiring a VE analysis. VE analyses are now required for:

- Projects on the National Highway System (NHS) receiving Federal assistance with an estimated total cost of \$50,000,000 or more; and
- Bridge projects on the NHS receiving Federal assistance with an estimated total cost of \$40,000,000 or more.
- Any other project designated by the USDOT Secretary

PART IV - CHAPTER 4: OTHER FEDERAL PROGRAM CHARACTERISTICS

A. USING FEDERAL FUNDS FOR EARLY STAGES OF A PROJECT (PD&E, PE AND/OR R/W) BUT NOT CONSTRUCTION

Title 23 U.S.C. Section 145 provides the statutory authority that allows State Transportation Agencies (STAs) to select projects for the Federal-aid highway program. If a STA uses Federal funds for early phases of project development (preliminary engineering, environmental documentation, right of way (r/w), etc.) there is no requirement to use Federal funds for construction. If the STA chooses to use State funds for construction, Federal requirements such as the use of form "FHWA-1273 Required Contract Provisions Federal-aid Construction Contracts" would not be required.

In light of the proposed Florida Future Corridor Planning and Screening Process (FCPSP) and the FDOT Executive Board's proposal to use State procedures and funds to acquire right of way, FDOT requested an opinion by FHWA as to whether the use of Federal-aid funds for NEPA activities triggers the application of the Uniform Act for right of way acquisition purposes. The FHWA Chief Counsel issued a legal opinion dated April 26, 2007 (attached below) which reaffirms FHWA's previous position that the use of Federal funds for NEPA activities does trigger the application of the Uniform Act. The legal opinion provides that when Federal-aid funds participate in NEPA activities and FHWA issues a NEPA finding, the State is obligated to comply with the Uniform Act and all other Federal requirements (environmental mitigation and FHWA 1273 construction provisions such as Davis-Bacon and Buy America, if Federal funds are used for construction).

The legal opinion provides that the Uniform Act would *not* apply if the *only* Federal expenditures on a project relate to planning level feasibility studies or other expenditures typically associated with planning level decision-making. Based on the FCPSP's Concept, Feasibility, and ETDM/PD&E stages of activity, the legal opinion provides that (based on the *Future Corridors Planning Screening Process Implementation Guidance*) the FCPSP Concept and Feasibility stages would be considered planning level activities. Additionally, the legal opinion provides that a State may withdraw or "defederalize" a project under certain circumstances at early stages of project development provided there is repayment of all Federal funds previously received for the project and provided FHWA has not issued a NEPA finding (i.e., a Finding of No Significant Impact or Record of Decision, or the project does not involve significant environmental impacts and is classified as a Categorical Exclusion under 23 CFR 771).

It is important to note that the FDOT inquiry and the FHWA response dealt with the issue of Uniform Act applicability for right of way acquisition subsequent to FHWA NEPA approval. The Uniform Act also applies to all State, local, and privately funded early right of way acquisition (i.e., pre-FHWA NEPA approval) in advance of projects that will utilize Federal funds in the NEPA, right of way, preliminary & final design, or construction project phases (see 49 CFR 24.101(b), 24.2(22), and Uniform Act, Sec. 207). Local governments and others should work closely with their FDOT Local Agency Program and Right of Way Offices prior to undertaking early right of way acquisition in advance of Federal-aid projects.

If the STA has used federal funds for preliminary engineering or environmental phases of the project development, and now wants to use State funds for construction, this would not free them from compliance with federal environmental requirements, such as NEPA & 4(f). However, if the STA was in compliance with federal environmental law and was choosing to use State funds for construction for another reason, that is their right under 23 U.S.C. 145, and, if they do so, compliance with Federal requirements for construction projects, such as the form FHWA-1273 requirements would not be required.

B. FEDERAL AND STATE FUNDED PROJECTS UNDER A SINGLE CONTRACT

There are instances where multiple financial projects have been tied (or strung) together under a single contract for bidding purposes. In some instances both federally funded and state funded projects have been tied together.

It is important to understand that, when this takes place, the entire contract becomes federalized, including the 100% state funded financial project which was tied to the federally funded financial project and, as a result, must comply with applicable federal laws, rules and regulations.

Many of the federal requirements described in the Code of Federal Regulations pertain to contract provisions. When referring to a federal-aid project, the regulations intend for the work described in the proposed contract to constitute the “federal-aid project” if any federal funds are financing the contract. This is without regard to how the individual financial projects are set up and funded in the Department’s adopted work program.

Generally speaking, FHWA’s construction contracting requirements apply when the Division Office authorizes traditional Federal-aid funding, loan or credit assistance for a specific construction contract. The requirements will apply to a specific contract regardless of the level of Federal investment. Federal construction requirements under title 23 and its implementing regulations apply to the specific activity or contract carried out with Federal funds, whether those funds are in the form of a grant or TIFIA credit assistance.

C. PROJECTS WITH MINIMAL SHARES OF FEDERAL FUNDS

FHWA encourages the utilization of the highest permissible percentage of Federal-aid funds on projects, but they will approve a lesser federal aid percentage when justified and determined to be in the traveling public’s best interest. The FHWA Florida Division Office relies on the current provision of 23 CFR 630.106(g) which states...

“The state may contribute more than the normal non-federal share of title 23, U.S.C. projects. In general, financing proposals that result in only minimal amounts of Federal funds in projects should be avoided unless they are based on sound project management decisions.”

When federal authorization requests (FARs) are submitted with federal funds falling below 50% of total project cost, the FHWA Florida Division Office will approve the request but will require an explanation as to the basis of the decision to fund the project in such a manner. This justification must be included in the comments accompanying the FAR in FAMS.

D. DISTRICTWIDE AND GENERAL CONSULTANT CONTRACTS

This guidance pertains to FHWA’s position relative to the use of area wide, district wide, program wide, general and other similar types of grouped work consultant contracts. These contracts generally involve multiple tasks, multiple projects/locations with similar scopes, or specific task assignments. Generally, Federal funds may only used when the scope of work, method of payment, and a detailed cost estimate including labor costs are clearly defined.

1. TASK ASSIGNMENT CONTRACTS

As required by 23 CFR Section 172, Federal Highway Administration (FHWA) is required to approve the procedures to hire consultants using federal-aid funds. On December 22, 2006, FHWA issued a

letter approving FDOT's Quality Assurance Review (QAR) process for Consultant Agreements and has agreed to classify all types of districtwide consultant agreements as exempt from project by project oversight.

- FHWA accepted the increased cost limits for districtwide miscellaneous minor professional services contracts from \$750,000 to \$1.5 million,
- Increased the limit per task assignment from \$150,000 to \$300,000, and
- Increased the contract term from 2 years to 5 years.

This approval will be retroactive and any existing districtwide consultant contracts (except planning) that were previously oversight may be modified to state administered. The following comment should be used when submitting the authorization request,

“Due to FHWA approval of the districtwide consultant selection and quality assurance review process this project is being changed from oversight to state administered.”

For new contracts:

- FDOT will provide the FHWA Transportation Engineer with a copy of the executed contract with scope, staff hours (if available) and method of compensation.
- Individual executed task work orders are no longer required for submittal to or approval from the FHWA Transportation Engineer.
- FHWA will continue to retain project by project oversight of **planning** contracts following the process outlined in their July 12, 2006, letter.

The Quality Assurance Monitoring Plan provides for the review of every district on a two year cycle. FHWA may elect to participate in these reviews, or conduct independent evaluations. An annual summary report of the reviews performed, including findings, positive or negative, will be submitted to the FHWA with recommendations and actions on how to correct any deficiencies noted. Additional details on the QAR process for review of these contracts can be obtained from the Procurement Office responsible for the quality assurance reviews in accordance with the Department's Quality Assurance (QA) and Quality Control (QC) Policy, Topic No.: [001-260-001-a](#).

Department Procedure Topic Number, [375-040-020](#), “Procurement of Commodities and Contractual Services” which is currently in the Online Procedure review process has also been modified to include the following statement:

“The procurement unit may proceed with the contract vendor hiring process up to, but not including, contract execution prior to being provided a copy of the executed FHWA Electronic Signature Document (ESD). If the contract is executed prior to receipt of an approved ESD, services provided prior to approval will not be federally funded.”

Department Procedure Topic Number, [375-030-002](#), “Acquisition of Professional Services” has also been updated by the Procurement Office to incorporate the FHWA approved changes.

Professional services provided to the Department on a continuing basis with no time limitation except that the contract will provide a termination clause. Continuing contracts for professional services will be restricted in use to services for projects which construction costs do not exceed \$1,000,000 each, or for each study activity when the fee for such professional service does not exceed \$50,000, or for work of a specified nature as outlined in the contract. **Continuing contracts using federal-aid funds**

must be limited in duration to a period not to exceed two years, unless otherwise approved by the appropriate federal agency. Without the approval of the Secretary of Transportation, the period for a continuing contract may not exceed 5 years and total fee may not exceed \$5,000,000.

2. GENERAL CONSULTANTS

FHWA will not participate in General Consultant contracts.

E. REPAYMENT OF FEDERAL FUNDS FOR PRELIMINARY ENGINEERING AND/OR RIGHT OF WAY IF CONSTRUCTION IS NOT TO BE COMPLETED

Title 23, Chapter 1, Section 630.112(c), Code of Federal Regulations, states:

- Project for acquisition of rights-of-way. In the event that actual construction of a road on this Right of Way is not undertaken by the close of the twentieth federal fiscal year following the federal fiscal year in which the project is authorized, the State Transportation Department will repay to the FHWA the sum or sums of Federal funds paid to the transportation department under the terms of the agreement. The State may request a time extension beyond the 20-year limit with no repayment of Federal funds, and the FHWA may approve this request if it is considered reasonable.
- Preliminary engineering project. In the event that Right of Way acquisition for, or actual construction of, the road for which this preliminary engineering is undertaken is not started by the close of the tenth federal fiscal year following the federal fiscal year in which the project is authorized, the State Transportation Department will repay to the FHWA the sum or sums of Federal funds paid to the transportation department under the terms of the agreement. The State may request a time extension for any preliminary engineering project beyond the 10-year limit with no repayment of Federal funds, and the FHWA may approve this request if it is considered reasonable.

FHWA's April, 26, 2011, directive entitled, "Repayment of Preliminary Engineering Cost" clarifies:

The FHWA has a longstanding practice of not mandating repayment of PE funds when project termination is directly related to compliance with another Federal law. For instance, repayment of reimbursed PE costs would not be required if the FHWA and a State determine that a project should not be advanced as a result of findings during the National Environmental Policy Act (NEPA) process. To do otherwise could skew the NEPA process by causing a State to favor a "build" alternative to avoid repaying PE costs incurred during the NEPA review.

Examples of factors for the division office to consider for granting time extensions include:

- Litigation resulting in delays to project development;
- Complex project consultations involving Federal, State, local agencies, or sovereign nations; and
- Where the public involvement process has altered the State's plan for satisfying the project's purpose and need.

PART IV - CHAPTER 5: STATEWIDE AND LOCAL TRANSPORTATION IMPROVEMENT PROGRAMS (STIP AND TIPS)

A. REQUIREMENTS TO OBTAIN APPROVED FEDERAL AUTHORIZATION

Before a federal authorization can be obtained, the project must be properly listed in the federally mandated four year State Transportation Improvement Program (STIP) and, if the project is located within a Metropolitan Planning Organization's (MPO's) boundaries, it must also be listed in the first four years of the MPO's five year Transportation Improvement Program (TIP).

Generally, a properly filed federal authorization request will be approved by FHWA within two (2) weeks of submission to FHWA by the Federal Aid Management Office. However, if the project is not properly listed in the STIP/TIP, then a TIP amendment requiring MPO board action may be required to obtain the federal authorization, which may delay commencement of work by weeks, if not months.

A State Transportation Improvement Program (STIP) amendment generally needs to accompany the TIP amendment. STIP amendments are processed monthly. Both the federal STIP and MPO TIPs follow the same guidelines for amendments to the plans, as outlined in later sections of these instructions.

Prior to submitting a Federal Authorization Request to the district Federal Aid Coordinator, district staff (e.g. Planning, Work Program, Estimates, Right of Way) should verify that the project is properly listed in the STIP/TIP. **This verification should take place at least two (2) months in advance of the district's submission of the project authorization request** to the district Federal Aid Coordinator to ensure adequate time to process a STIP/TIP amendment if required. **For advanced warning on projects that may need TIP/STIP amendments the following reporting tool has been developed:**

<http://webapp02.dot.state.fl.us/fmsupportapps/federalaid/stip.aspx>

If a project falls within the STIP/TIP amendment criteria, district planning staff will notify the MPO of the need to process a TIP amendment and will notify the Office of Policy Planning of the need to process a STIP amendment. The Office of Policy Planning will review all TIP amendments for accuracy and for compliance with all applicable criteria prior to submitting them to the Federal Aid Management Office for electronic transmission to FHWA along with the accompanying STIP amendment.

B. STATE TRANSPORTATION IMPROVEMENT PROGRAM (STIP)

The State Transportation Improvement Program (STIP) is a federally mandated document which, as a component of this plan, must include a listing of projects planned with federal participation in the next four federal fiscal years. Although the STIP is approved annually by FHWA at the beginning of each federal fiscal year (October 1st), FHWA allows FDOT to report these four years on a state federal fiscal year basis (July 1st thru June 30th). This is because the report is based upon the federally funded projects listed in the first four years of FDOT's adopted five year work program.

Therefore, in order for a project to be listed in the approved STIP, it must first be included in the first four years of the adopted five year work program. The project must either be gamed into the Tentative work program during the annual tentative work program development cycle, or it must be amended into the work program after it has been adopted on July 1st of each state fiscal year.

1. REGIONALLY SIGNIFICANT PROJECTS (NOT FEDERALLY FUNDED):

Federal law requires all regionally significant transportation projects for which an FHWA or FTA approval is required be included in the TIP/STIP, whether or not the projects are to be funded with Title 23, U.S.C., or Federal Transit Act funds (e.g., addition of an interchange to the Interstate System with state, local, and/or private funds, demonstration projects not funded under Title 23, U.S.C., or the Federal Transit Act, etc.). FHWA or FTA approval in this context is not limited to obtaining federal approval to participate in the cost of the project, but extends to FHWA or FTA approval of environmental and/or permitting documents as well.

The STIP should, for information purposes, include all regionally significant transportation projects proposed to be funded with federal funds other than those administered by the FHWA or the FTA. It should also include, for information purposes, if appropriate and cited in any TIPs, all regionally significant projects, to be funded with non-federal funds (23 C.F.R. 450.216(h)).

2. REGIONALLY SIGNIFICANT PROJECT DEFINITION (23 CFR 450.104 AND 40 CFR 93.101):

A transportation project (other than an air quality exempt project, and projects that may be grouped in the TIP/STIP pursuant to 23 C.F.R. 450.216 and 23 C.F.R. 450.324 that is on a facility which serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, major planned developments such as new retail malls, sports complexes, etc., or transportation terminals as well as most terminals themselves) and would normally be included in the modeling of a metropolitan area's transportation network, including at a minimum all principal arterial highways and all fixed guideway transit facilities that offer an alternative to regional highway travel.

Additions in any of the four years of the TIP/STIP of regionally significant projects (for which an FHWA or FTA approval is required) will require a TIP/STIP amendment.

C. MPO'S TRANSPORTATION IMPROVEMENT PROGRAM (TIP)

Each Metropolitan Planning Organization (MPO) in the state is required by Florida Statutes to have a Transportation Improvement Plan (TIP) which, as a component of this plan, must include a listing of projects planned for the next five federal fiscal years. MPOs are also required to have a similar TIP for federally funded projects for the next four years. Therefore, each MPO annually publishes a single five year document to satisfy both state and federal requirements.

D. PROJECTS ADMINISTERED BY FEDERAL TRANSIT ADMINISTRATION (FTA)

Federal law requires virtually identical treatment of highway and bridge projects administered by FHWA and transit projects administered by FTA relative to TIP/STIP requirements. Both federal agencies require projects to be included in the currently approved STIP and applicable TIP before highway and bridge projects are authorized with FHWA or before transit grants are approved by FTA.

FTA Section 5309 projects (Bus and Bus Facilities, and New Starts) must be listed in the current approved STIP in order to be funded. These non-budgeted projects are originally listed in the work program in the year in which the funds became available. However, in many instances the transit authorities do not get the grants approved through FTA in the original year the funds became available. Because these projects phase are classified in the work program as non-budgeted, they do not roll forward automatically into the next year if they are not approved by FTA in the year programmed.

This means these projects must be manually programmed into the next year of the work program (before June 30th each year) so they will automatically appear in the new STIP. They also must be included in the MPO's TIP in the next year as well. This may be accomplished by either including them in the new STIP and TIP as submitted, or amending them into the STIP and TIP after they become effective October 1st of each year.

FDOT's Transit Manager has proved the following interim guidance: "In the short term, affected districts will have to ensure that STIP amendments are processed so that their agencies can access the funds.

It is our suggestion that the district Public Transportation staff continue to work with their local FTA recipients and MPOs to ensure that pending FTA Section 5309 earmarks (non-budgeted FTA funds) are advanced into the current STIP, if not applied for and approved by FTA in the year in which they were initially included."

E. AMENDING THE STIP AND TIPS

1. HOW TO DETERMINE IF A TIP/STIP AMENDMENT IS REQUIRED

Not all changes to the TIP/STIP require state review and federal approval of the changes. Changes requiring formal state review and federal approval are referred to as "TIP/STIP amendments", and are based upon criteria established under federal law. All TIP/STIP amendment requests should be reviewed by a single point of contact within the district to ensure that the information is accurate and complete before submittal to the Office of Policy Planning, the MPO Liaison, to ensure that the information is accurate and complete before submittal to the Office of Policy Planning by the 10th of each month. The TIP/STIP amendment requests will be reviewed by the Office of Policy Planning to ensure they are complete, prior to submittal to the Federal Aid Management Office by the 15th of each month. The Federal Aid Management Office will review the TIP/STIP for financial constraint and submit to FHWA and/or FTA for their review and approval.

TIPs/STIP will require formal amendments based on the following criteria:

- The change adds new individual projects to the current TIP/STIP;
- The change affects air quality conformity;
- The change adversely impacts financial constraint, including cost estimate increases;
- The change results in major scope changes; and/or,
- The change removes or deletes an individually listed project from the TIP/STIP

Caution: Please note that, although advancements from year 2, 3, or 4 of the TIP/STIP into year 1 do not require a formal TIP/STIP amendment, a work program Amendment will be required for such advancements (assuming the dollar thresholds are exceeded) along with all required notifications (including to MPOs). Similarly, deferrals from year 1 to year 2, 3, or 4 of the TIP/STIP do not require a formal TIP/STIP amendment, but a work program Amendment will be required (if dollar thresholds are exceeded) along with required notifications (including to MPOs).

2. APPLICATION OF MINIMUM FEDERAL CRITERIA

a. Adding new individual projects to the current TIP/STIP:

- The TIP/STIP covers a period of four years. Any federally funded project listed in any of the years of the TIP/STIP may be advanced or deferred within those years without requiring a TIP/STIP amendment.
- Any new project added to any of the years of the TIP/STIP will require a TIP/STIP amendment, if any federal funding is involved.

- If a project is listed in the first four years of the work program with state funds only, and the funding is subsequently changed to add federal funds, then this fund change will not require a TIP/STIP amendment.

b. Changes affecting air quality conformity:

If the MPO is in a designated maintenance area of the state, a determination must be made as to the effect of the change on air quality conformity. Any additions or deletions of projects, and any major scope changes to projects already in the TIP/STIP must consider the effect on air quality conformity.

If the project is exempt from air quality conformity as defined by *40 C.F.R. 93.126*, the TIP/STIP amendment transmittal letter must state that it is exempt.

If the project is not exempt, a new conformity determination must be made by the MPO before the TIP/STIP amendment can be approved. The TIP/STIP amendment transmittal letter must state that conformity has been re-determined.

A project is seen as affecting air quality conformity when it includes additions and modifications to the transportation network that the transportation plan reports will be operational in specific horizon years (*40 C.F.R. 93.106*).

If a project affecting air quality is advanced or deferred such that the change crosses a designated horizon year, air quality must be re-determined.

If a project affecting a milestone (an emissions level and the date on which it is required to be achieved) is added or deleted, air quality conformity must be re-determined.

For further information regarding air quality conformity determinations, please contact the Office of Policy Planning.

c. Adverse impacts to financial constraint, including cost estimate increases:

Federal law requires that the TIPs/STIP must be financially constrained to the amount of funds that have been projected to be available, by year, over the four year period of the approved TIPs/STIP. This means that the cost of new projects and cost increases on existing projects must be offset by decreases in other areas of the TIP/STIP to maintain the financial constraints upon which the TIP/STIP was originally developed, unless new sources of funds are identified.

If new projects are added to the TIP/STIP, the TIP/STIP amendment transmittal letter must identify the source of funds for the new project. Examples include, but are not limited to, one or more of the following:

- The funds are coming from a contingency box item already included in the appropriate year of the work program. The TIP/STIP amendment should show the reduction in the contingency box item as well as the cost of the new project addition.
- The funds are coming from the deletion or deferral of another individual project in the appropriate year of the TIP/STIP. The TIP/STIP amendment should identify the specific project being deleted or deferred as well as the new project addition.
- The funds are coming from reduction(s) of cost estimate(s) to other project(s) already included in the appropriate year of the TIP/STIP. The TIP/STIP amendment should identify the specific project(s) where estimated costs are being reduced.

- The funds are coming from new appropriations or allocations of federal funds that were not available, or reasonably expected to be available, when the TIP/STIP was originally developed. The TIP/STIP amendment should identify the source and amount of the new funds.

If the estimated cost increases on an existing project already included in the TIP/STIP, then a TIP/STIP amendment is not required to make this cost adjustment, as long as all of the following statements are true:

- The funds financing this cost increase did not come from the deletion of another project already included in the TIP/STIP (or deferral of another project beyond the four years of the TIP/STIP),
- The TIP/STIP remains financially constrained after the cost adjustment, and
- The cost increase did not arise as a result of a major scope change to the project, as defined below, and
- The cost increase does not represent more than 20% of the total project cost of all the phases on the federal authorization, or \$2 million, whichever is greater.

If the cost increase represents more than 20% of the total cost of all the phases on the federal authorization request, and such cost increase is more than \$2 million, then a TIP/STIP amendment will be required.

The following table provides examples of how these criteria are applied:

Cost Estimate in STIP	Latest Estimate in Work Program	Increase in Cost	Percentage Increase	Increase Exceed 20%?	Increase Exceed \$2 million?	STIP Amendment Required?
\$ 1,000,000	\$ 1,250,000	\$ 250,000	25.0%	Yes	No	No
\$ 1,000,000	\$ 3,200,000	\$2,200,000	220.0%	Yes	Yes	Yes
\$ 5,000,000	\$ 6,500,000	\$1,500,000	30.0%	Yes	No	No
\$ 5,000,000	\$ 7,500,000	\$2,500,000	50.0%	Yes	Yes	Yes
\$10,000,000	\$ 12,000,000	\$2,000,000	20.0%	No	No	No
\$10,000,000	\$ 15,000,000	\$5,000,000	50.0%	Yes	Yes	Yes
\$15,000,000	\$ 17,500,000	\$2,500,000	16.7%	No	Yes	No
\$15,000,000	\$ 18,500,000	\$3,500,000	23.3%	Yes	Yes	Yes

d. Major scope changes

A TIP/STIP amendment is required if there are major changes to the scope of a project. In this context a major scope change is defined to be one that changes or significantly expands the basic attributes or nature of a project (design concept). Examples include, but are not limited to, the following:

- Any change that would materially affect air quality conformity determinations;

- Any material changes to project limits;
- Any material changes to capacity (e.g. adding additional lanes);
- Any material changes to type of work (e.g. adding bridge repairs to resurfacing job, or changing modes from highway to transit); and,
- Any scope change that is significant enough to affect the priority order of projects in the TIP/STIP, or to affect consistency with the MPO's Long Range Transportation Plan (LRTP).

e. Deleting an individually listed project from the TIP/STIP:

The deletion of any individually listed project in the four years of the TIP/STIP requires a TIP/STIP amendment, including a statement of its effect on air quality conformity, if applicable.

3. CONTENTS OF TIP/STIP AMENDMENT PACKAGE

TIP Amendment packages must include specific documents and provide specific information regarding projects changes to be considered complete. The accompanying STIP amendment (prepared by the Federal Aid Management Office) will draw upon the contents of individual TIP amendments as the basis for its preparation.

TIP Amendments must contain the following information for new projects:

- Project name, limits, a detailed project description and type of work;
- Financial Project Number (FPN);
- Federal Aid Project Number (FAP), if assigned;
- FDOT work program fund code;
- Estimated cost;
- Phase;
- State federal fiscal year in which work is to commence;
- Reason for the proposed change;
- Effect of the change to financial constraints;
- Effect of the change on air quality conformity, if applicable;
- Consistency of the change with the goals of the MPO's LRTP;
- Whether a STIP Amendment is required;
- Documentation of MPO Board approval of the TIP amendment (or staff approval if approval authority has been delegated to MPO staff, and documentation of the delegation of approval authority);
- Confirmation of coordination/consultation between district and MPO regarding the change;
- Signed document from district staff attesting that the TIP amendment package has been reviewed and found to be in compliance with applicable laws and procedures;

- Signed document (by MPO Chair or designee) attesting that the TIP amendment was developed and approved in compliance with applicable laws and procedures; and,
- A copy of the amended TIP page showing the change.
- For all TIP amendments involving FTA funding, include the FTA Funding Section Number and Description, i.e., Section 5307 Large Urban Cities Transit Improvements. Including this information on the WP01 screen as an “xdesc” field will ensure that the reference is automatically incorporated. See Part III – Freight, Logistics and Passenger Operations (FLP) chapter, Transit Section for specific programming instructions.

For existing projects, include the same information as 1-18 above, and:

- As listed in the current TIP (include TIP page number);
- As proposed to be amended (include new TIP page number); and,
- The page number in the existing STIP where it may be found.

To assist MPO, District/Turnpike Enterprise staff in the preparation of TIP Amendment packages, a TIP amendment form has been developed and is available in electronic form from the Office of Policy Planning. This form is designed to function as a checklist to ensure all applicable criteria are met, and the amendment package is accurate and complete when submitted to the Office of Policy Planning for review.

District/Turnpike Enterprise staff will be notified via email when TIP/STIP amendment(s) are approved by FHWA, and approved amendment packages will be posted to the Federal Aid Management Office's Internet site.

4. ROUTING OF STIP AMENDMENT REQUESTS

a. STIP Amendment requests within MPO boundaries

STIP Amendment requests within MPO boundaries are generally accompanied by corresponding TIP amendments already prepared by the various MPOs. These STIP amendment requests must be routed to the Office of Policy Planning (OPP) for review for completeness and consistency with the TIP amendments, and for air quality conformity determinations, if applicable. After completing their review, OPP forwards these requests to the Federal Aid Management Office. The Federal Aid Management Office then consolidates all requests on hand into a single STIP Amendment for submission to FHWA.

b. STIP Amendment requests outside of MPO boundaries

STIP Amendment requests from areas outside of MPO boundaries will not have accompanying TIP amendments, and there are no air quality conformity areas outside MPO boundaries in Florida at the present time. Therefore, these requests DO NOT need to be sent to OPP for their review.

STIP Amendment requests outside of MPO areas may be sent directly to the Federal Aid Management Office for incorporation into the next consolidated STIP Amendment.

5. SCHEDULE FOR PROCESSING TIP/STIP AMENDMENTS

FHWA has requested we limit the processing of STIP amendments to once per month. Further, FHWA has indicated that in the month of September each year their staff is very involved in the review of the new MPO TIPs and the state STIP and will not accept STIP Amendments to the current STIP during the month of September.

STIP Amendments will be processed according to the following schedule:

a. TIP/STIP Amendment requests within MPO boundaries

TIP/STIP Amendment requests received by the Office of Policy Planning (OPP) for review by the 10th of each month will be included in the STIP Amendment for that month, provided the requests are complete and require no clarifications or other District/Turnpike Enterprise, or MPO input.

b. STIP Amendment requests outside of MPO boundaries

STIP Amendment requests from areas outside of MPO boundaries received by the Federal Aid Management Office by the 15th of each month will be included in the STIP Amendment for that month, provided the requests are complete and require no clarifications or other District/Turnpike Enterprise input.

This should enable FHWA to routinely approve the amendment by the end of the month, or thereabouts.

This schedule will apply to all months except September. No STIP Amendments will be processed during the month of September, so anticipate your needs early as we approach this last month of the federal fiscal year.

It is important to note that submitting an incomplete STIP Amendment request may result in the request not being included in the consolidated STIP Amendment for that month, if needed information cannot be obtained prior to the due dates for that month as outlined above.

F. ROLL FORWARD PROJECTS IN NEW TIP

Every March, the Office of Work Program and Budget provides the districts the tentative work program that is to be adopted on July 1. The MPO's TIP incorporates the tentative work program and is also adopted on July 1. Year 1 of the TIP and the work program should always match. However when the new TIP and work program become adopted on July 1, there are often projects which were intended to be authorized prior to June 30 (i.e. when the previous TIP and work program were in effect), but did not. These projects will automatically roll forward in the work program (and also in the STIP) but not in the TIP. Hence there is a need to reconcile the two documents and bring the TIP up to date. This is accomplished by what is known as a Roll Forward TIP amendment. Around mid to late July, the Office of Work Program and Budget posts the Roll Forward Report online. This report lists, by district, those projects which did not get authorized by the end of the last federal fiscal year and have been rolled forward in the newly adopted work program. The districts provide this list to the MPO, and the MPO uses this list to process a Roll Forward TIP Amendment.

An MPO can do a Roll Forward TIP amendment as soon as the Roll Forward Report is published. However, FHWA will not recognize the approval of the Roll Forward TIP Amendment until after October 1, the effective date of the new MPO TIP. Please note that there is no need for the MPOs to request a Roll Forward STIP Amendment because these Roll Forward projects are already included in the new STIP, to be effective October 1.

G. ADMINISTRATIVE TIP AMENDMENTS FOR AMENDING OLD TIP AFTER NEW TIP IS ADOPTED ON JULY 1ST

Metropolitan Planning Organizations (MPOs) statewide will adopt their new Transportation Improvement Programs (TIPs) to be effective July 1st. However, they will not be recognized as effective for federal purposes until October 1st since the federal fiscal year doesn't start until October 1st.

This difference in state versus federal fiscal year presents the MPOs with the situation of having some projects in the state federal fiscal year 2014 in the new TIP that may not appear in the old TIP because they were added during the last tentative work program development cycle.

FHWA has, in the past, required Board action to amend these same projects into the old TIP during the months of July, August and September before we can get a federal authorization approved for these projects. Yet MPO board action to adopt the new TIPs on July 1st each year clearly demonstrates the intent of the MPO to include these projects in their TIPs for that time period.

FHWA recognizes the confusion caused by having to bring to the MPO Board these requests to amend projects into the old TIP, after July 1st each year, when these same projects are already included in the new TIP already approved by the Board and adopted on July 1st.

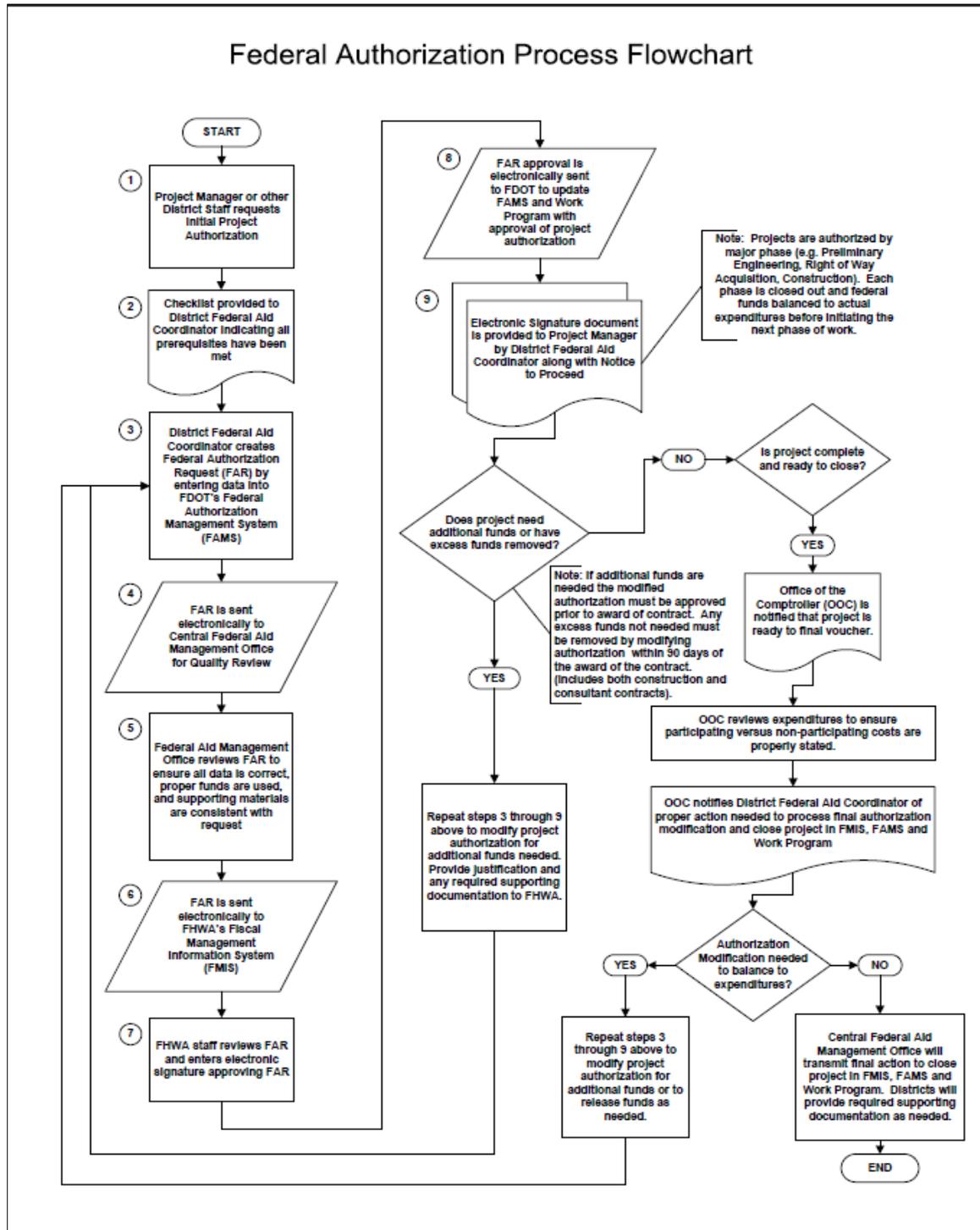
Therefore, FHWA has agreed to allow the MPO Executive Directors to process "administrative" TIP amendments for these types of projects when adding them to the old TIPs during this three month period, rather than having to take full board action to add projects already included in the new adopted TIPs. FHWA will allow this ONLY under the following conditions:

- The administrative amendments take place between July 1st and September 30th of each year.
- The projects included in the administrative amendment are the identical projects already approved and included in the first year of the new TIP adopted on July 1st. There must be no change in the project description, funding or scope of work. They must appear in the administrative amendment exactly as they appear in the new TIP.

All other requirements for processing TIP amendments must be adhered to, including a letter from the MPO Executive Director approving the amendment, with the detailed project information included.

PART IV - CHAPTER 6: AUTHORIZING FEDERAL PROJECTS WITH FHWA

A. FLOWCHART ON FEDERAL AUTHORIZATION PROCESS



B. DEPARTMENT PROCEDURE NO. 350-050-005 FEDERAL PROJECT AUTHORIZATIONS

This departmental procedure provides an overview of the process for obtaining an approved authorization from Federal Highway Administration (FHWA) to provide funding to begin a specific transportation project.

It also provides an overview of the process for modifying initial project authorizations for contract awards, supplemental agreements, non-participating costs, and other adjustments as required throughout the life of the project, and for closing the project in FHWA's (and FDOT's) fiscal records upon completion.

It is a brief procedure designed for individuals interested in the basic steps involved in obtaining federal participation in the cost of transportation projects administered by Federal Highway Administration. It does not address detailed instructions for each of these basic steps. Detailed instructions are found in later sections within this chapter and the procedure is available from:

<http://www2.dot.state.fl.us/proceduraldocuments/procedures/bin/350050005.pdf>

C. DEFINING THE FEDERAL PROJECT

1. RELATIONSHIP OF FINANCIAL PROJECTS TO FEDERAL PROJECTS

Each phase group generally represents a separate federal project phase. A typical road or bridge job will consist of two or three separate federal project phases, each having a separate Federal Aid Project Number:

- Preliminary Engineering
- Right of Way (if needed)
- Construction

With few exceptions, each phase of work must be closed in the fiscal systems (FAMS and FMIS) before the next phase of work can begin.

Other types of phases are treated differently in terms of phasing and closing procedures. These are discussed in other sections of this chapter.

Each federal project will consist of one or more financial projects and/or financial project phases. Generally, a federal project will consist of only one set of related phases, such as PE, R/W or Construction. These are known as "phase groups" in FDOT's work program (1st digit of phase). The work program Phase Types (2nd digit of phase) are more specific subsets of the Phase Groups. See *Work Program Instructions, Appendix D*, for details.

Examples follow:

- A single federal project may consist of (be associated to) multiple types of construction (5x,6x) phases from a single financial project in a single year, such as:
 - Phase 52, construction contractor
 - Phase 56, construction utilities
 - Phase 61, construction engineering support, in-house
 - Phase 62, construction engineering support, consultant

- A single federal project may consist of a single type of design consultant phase for multiple financial projects in a single year, such as:
 - Phase 32, PE consultant, for Financial Project No. 123456 32 1
 - Phase 32, PE consultant, for Financial Project No. 234567 32 1
 - Phase 32, PE consultant, for Financial Project No. 345678 32 1
- A single federal project may consist of multiple right of way phases of a single financial project programmed over several years, such as
 - Phase 42, R/W consultant Yr1
 - Phase 42, R/W consultant in Yr2
 - Phase 43, R/W purchase in Yr1
 - Phase 43, R/W purchase in Yr2

2. ASSIGNING THE FEDERAL AID PROJECT NUMBER

The district Federal Aid Coordinator initiates the request for Federal Aid Project Number (Exhibit 1). The request includes:

- A statement requesting a Federal Aid Project (FAP No.) number.
- Financial Project number(s) including the phase(s) and sequence(s) to be associated.
- FAP No.'s are primarily derived from the geographical location. If an earlier phase of work on this financial project has already had a FAP No. assigned then the FAP No. should be provided with the request. The new request will then utilize the same geographical route number with a new assigned improvement number. Otherwise, provide a project location map so the route number can be identified and the improvement number assigned.

3. SHOW TOTAL PROJECT COSTS ON FARS; ASSOCIATE NON-FEDERAL FUNDS

Federal Authorization Requests (FARs) should reflect the total cost of the project, not just the federal funds (and required state match, if any). Other funding sources on the project should be “associated” or incorporated within the FAR. These associated funds can be any type of funds other than federal funds, including state (in addition to required match, if any), local, turnpike, bonds (Tpk, R/W), and/or loans (SIB, TIFIA).

D. COMMON CRITERIA FOR ALL FEDERAL PROJECTS

Federal Authorization Requests (FARs) are prepared in FDOT's Federal Authorization Management System (FAMS) and submitted electronically to the Federal Aid Management Office in Tallahassee by the Federal Aid Coordinators in each district, turnpike and central offices where statewide programs are managed.

It is the responsibility of Project Managers to ensure that Federal Aid Coordinators are notified in a timely manner of the need to request federal authorizations for federally funded projects. This responsibility includes ensuring all the required prerequisite criteria are met (and supporting materials are available) BEFORE requesting the Federal Aid Coordinators to prepare the FAR.

Federal authorizations must be approved by FHWA before construction contracts can be advertised, or in the case of professional services contracts, before the contracts may be executed.

Concurrence in award must be obtained from FHWA on oversight construction contracts let in Central Office before the contract is awarded. FHWA's concurrence in award is obtained and documented by the Federal Aid Management Office.

Federal projects must be modified to match the contract award amount. Obligation of additional federal funds to match the contract award must be approved by FHWA prior to the award of the contract. Deobligation of federal funds to match the contract award must be requested within 90 days after award, so the federal funds can be released and used on other projects.

FARs submitted to the Federal Aid Management Office must be reviewed for accuracy before they are transmitted electronically to FHWA, and are occasionally returned to the originator for corrections. FHWA's Financial Administrator also reviews all project transmittals and electronically approves projects exempt from federal oversight, and if the project is subject to FHWA oversight, a FHWA engineer reviews and approves it electronically. Occasionally, an engineer may be on travel status, which may also delay the approval. For these reasons, FARs should be submitted to the Federal Aid Management Office at least 30 days prior to the date the approval is needed, to avoid unnecessary delays.

The Federal Aid Coordinators will notify appropriate staff when federal project authorizations are approved. Approved authorizations are also posted daily to the Federal Aid Management Office's Infonet site.

Certain criteria must be met for all projects that are partially or fully funded with federal funds before work can commence on the project. These criteria are listed below:

- The project phase(s) must be included in FDOT's adopted five year work program.
- The project phase(s) must be listed in FDOT's federally mandated STIP (with the exception of planning and emergency repair phases).
- If the project phase(s) is located in an area represented by an MPO, the project phase(s) must also be included in the MPO's TIP.
- State budget authority must be available for the project so it can be encumbered prior to contract execution.
- A Federal Aid Project Number (FAP No.) must be assigned to the project phase(s) included in each Federal Authorization Request.
- A Federal Authorization Request (FAR) must be prepared by the district Federal Aid Coordinator (or selected statewide program managers) in FAMS and submitted electronically to the Federal Aid Management Office in Tallahassee, along with all required supporting materials. The Federal Aid Management Office, after reviewing the FAR for accuracy, will electronically transmit the FAR to FHWA for their approval.
- The initial federal authorization must be approved by FHWA before any work can commence or any costs can be incurred on the project (with the exception of emergency repairs performed immediately after a declared disaster to keep roads and bridges open to traffic. See Chapter 1, Section W, "Emergency Relief Program" in this part of these instructions for further details.)

Please refer to the following sections of this chapter for guidelines on the specific steps necessary to obtain approved federal authorizations for specific types of projects.

E. AUTHORIZING HIGHWAY PLANNING AND RESEARCH PROJECTS

Planning includes the activities and resources required to evaluate the impact of development throughout the state, identify transportation problems and needs, develop short and long range transportation plans, and provide planning database services.

New contracts and Task Work Orders must be submitted to FHWA for their approval prior to authorization.

See Part III – Programming Guidelines, Chapter 21: Planning, for additional detail.

Highway Planning and Research Projects should use the HP numbers assigned for this purpose by central office. Each district will be assigned an FAP No. in the form HP0#-xxx where the # is representative of the district and “xxx” is the Improvement Number as the next sequential number available. CO will utilize HP09-xxx

Financial project numbers are established for each type of work activity approved in the SPR are associated to the FAP No. established for each district and CO as follows:

Transportation Planning Activities	Phase 11 with a 1 year date range
Data Collection Activities	Phase 11 with a 1 year date range
Systems Planning Activities	Phase 11 with a 1 year date range
Operating Consultants	Phase 12 will not have a date range and the sequence number should be incremented for new contracts.

*CO will have many more project numbers for specialized tasks and special projects to be identified by the Office of Work Program and Budget, MPO Funds/HP Funds/ITS S/W Funds/SIS/ Work Program Coordinator in consultation and coordination with the Office of Policy Planning.

- The Phase 11 Financial Project Numbers (FPN) will have a 1 year length and will be re-used and associated to a new FAP No. where the improvement number will be incremented by one.
See “Example 1”
- The Phase 12 FPN will not have a date range and the sequence number will be incremented by one and associated to the new FAP No.
See “Example 2”

Example 1:

FAP No. HP0X- 046 with an FPN Phase 11 should be established to end at the State federal fiscal year end 6/30/2009. The next number would be HP0X-047 and it would be associated with the same Phase 11 FPN and the date range would be from 7/1/2009 to 6/30/2010.

Example 2:

An FAP No. such as HP46-001 with an FPN Phase 12 will be assigned for the consultant phase of work with a three year date range to allow for the processing of invoices that will be submitted until the encumbrance is fully expended. Each year a new Route Identifier will be established to track which year the contract originated and will correspond to that year’s SPR approval. Each new consultant contract will receive the next subsequent FAP No. for that year’s approved SPR. The next contract would receive HP46-002 and would remain open until the encumbrance is fully expended or the maximum contract length negotiated with FHWA (currently three years with the potential for an extension). The following year’s Route ID would be HP47-001 and all consultant contracts approved in that year’s SPR will receive the next sequential number.

FHWA may grant approval of three-year planning contracts (for HP funds) if all of the Federal requirements are incorporated into the boilerplate contractual provisions. PL funds will still be subject to the 2 year \$750,000 limitation unless a documented exception is obtained from FHWA. Regardless of contract length, task work orders should be submitted to FHWA for approval prior to commencing work. Any work that begins prior to task work order approval by the FHWA Division Planning Programs Coordinator must be coded as non-participating.

See Department Procedure “Professional Services Acquisition” Topic No. [375-030-002](http://www2.dot.state.fl.us/proceduraldocuments/procedures/bin/375030002.pdf) (<http://www2.dot.state.fl.us/proceduraldocuments/procedures/bin/375030002.pdf>), which documents the process to be used when federal funds are used on any contract.

In the event that federal funds are utilized on a task work order, operating margin will be established as a lump sum compensation element (fixed fee); otherwise FHWA will not participate in cost reimbursement.

F. AUTHORIZING METROPOLITAN PLANNING PROJECTS

The allocations to the Metropolitan Planning Organizations (MPOs) should be used for their Unified Planning Work Programs (UPWP) as well as HP allocations for In-House and Operating Budget Consultants in the Districts and Central Office.

MAP-21 continued the SAFETEA-LU requirement for the State to promptly reimburse metropolitan planning (PL) funds to MPO's in Section 1007, Metropolitan Planning, with the following provision of 23 USC 104(f)(4):

"(B) REIMBURSEMENT.-Not later than 30 days after the date of receipt by a State of a request for reimbursement of expenditures made by a metropolitan planning organization for carrying out Section 134, the State shall reimburse, from funds distributed under this paragraph to the metropolitan planning organization by the State, the metropolitan planning organization for those expenditures."

This provision became effective with SAFETEA-LU and is applicable to all claims for reimbursement for PL funds that the State receives from an MPO after August 10, 2005, which must be paid within 30 days of receipt of the MPO's request for reimbursement. This requirement is also reflected in a revision to 23 CFR Part 420, Planning and Research Program Administration.

For FAP No. assignment, the Route ID Number will represent the county using the Federal County Codes and Improvement Number will be the next sequential number incremented by one each year they are assigned for a period of two federal fiscal years.

See the Part III – Planning chapter of these instructions for additional detail.

G. AUTHORIZING PRELIMINARY ENGINEERING PROJECTS (INCLUDING PD&E)

District Federal Aid Coordinators should e-mail their central office representative for a FAP No. and the Financial Management phases to be associated to the project along with a location map.

With the exception of Interstate, Bridge and Off the State Highway System projects, all in-house preliminary engineering phases shall be programmed with DIH, DSBX or PKXX, as appropriate. For Interstate or Bridge projects, in-house preliminary engineering phases may be programmed with federal funds. For projects Off the State Highway System, in-house engineering phases must be programmed with federal funds.

H. AUTHORIZING RIGHT OF WAY PROJECTS

Presently, FHWA requires that districts provide a Right of Way (R/W) cost estimate when requesting the initial federal authorization on a right of way phase.

FHWA has confirmed that R/W map submission is no longer required on any project, including oversight, except for advance acquisition (hardship buying, protective buying).

However, there have been several instances recently where it was discovered that offers had been presented to property owners prior to the date of the approved federal authorization. This is a violation of

the federal regulations relating to acquisition of right of way land with federal aid funds. The FHWA Florida Division Office Realty Officer has requested the Department to provide documentation that offers have not been made prior to the federal authorization.

In addition to the R/W cost estimate, districts must also provide the “Acquisition Detail” Report for the R/W phase requesting authorization. This report is generated out of the Right of Way Management System (RWMS) and will show, for each parcel, the dates when initial negotiations began. The column on this report titled “Initiation of Negotiation” should be blank prior to the approval of the federal authorization request. This will provide FHWA with the negative assurance they require in order to approve the initial authorization request.

This report may be generated and saved in either Adobe PDF format or Excel spreadsheet XLS format. The file can then be attached to an email and sent directly to FHWA Florida Division Office Right of Way Officer, or it can be sent to your district representative in the Federal Aid Management Office. We will forward the document to FHWA when we submit the Authorization Request to FHWA for approval. If the document is sent directly to FHWA by the district, then a comment should be placed on the authorization request indicating it was sent, and include the date it was sent.

A representative sample of the Acquisition Detail Report is shown below:

RWMPW016 FLORIDA DEPARTMENT OF TRANSPORTATION PAGE 04/26/06 10.00.29 PAGE: 1												
ACQUISITION DETAIL												
Selected Values - Parcels: All, Sort By: R/W Project Project Numbers: 2568812												
District	R/W Project	Construction Project	Parcel	Interest Parcel Name	Interest Status	Status Date	Agent	Notification Date	Appraisal Due	Appraisal Received	Initiation of Negotiation	Initial Offer
07	2568812	2568812	0100	MENNA-FINELLAS, LLC, A FLORIDA LIMITED LIABILITY	OPEN	02/06/2006			04/20/2006	04/04/2006		\$,00
				SYNOVUS BANK OF TAMPA BAY	OPEN	04/10/2006						\$,00
				SYNOVUS BANK OF TAMPA BAY	OPEN	04/10/2006						\$,00
				CHHABRIA ENTERPRISES, INC., A FLORIDA CORPORATION AND SHANTIA SINGH	OPEN	04/10/2006						\$,00
			0102	DILLEY, BARBARA JEAN, INDIVIDUALLY AND AS TRUSTEE	OPEN	04/10/2006						\$,00
				HUMBLE OIL AND REFINING COMPANY, A DELAWARE CORPORATION	OPEN	04/10/2006						\$,00
				CBS OUTDOOR, INC., A DELAWARE CORPORATION	OPEN	04/10/2006						\$,00
			0103	S & A FEE PROPERTIES SPE 2, LLC., A DELAWARE LIMITED LIABILITY COMPANY	OPEN	04/10/2006						\$,00
				WELLS FARGO BANK N.A.	OPEN	04/10/2006						\$,00
				GOOCH REALTY, INC. A FLORIDA CORPORATION	OPEN	04/10/2006						\$,00
				FLORIDA POWER CORP	OPEN	04/10/2006						\$,00
			0104	HELIKA PROPERTIES, A FLORIDA GENERAL PARTNERSHIP	OPEN	04/10/2006						\$,00
				FLORIDA POWER CORP	OPEN	04/10/2006						\$,00
			0105	SANDELMAN, JEFFREY, AS TRUSTEE OF THE SABROOKE TRUST	OPEN	04/10/2006						\$,00
				SANDELMAN, SANFORD AS TRUSTEE OF THE JASUE TRUST & SUSAN SANDELMAN	OPEN	04/10/2006						\$,00
				SANDELMAN, JEFFREY, AS TRUSTEE OF THE SABROOKE TRUST	OPEN	04/10/2006						\$,00
				FLORIDA POWER CORP	OPEN	04/10/2006						\$,00
			0106	KULACH, STANLEY AND ANNA KULACH, HUSBAND AND WIFE	OPEN	04/10/2006						\$,00
				SYNOVUS BANK OF TAMPA BAY	OPEN	04/10/2006						\$,00
				CITY OF CLEARWATER	OPEN	04/10/2006						\$,00
				FLORIDA POWER CORP	OPEN	04/10/2006						\$,00
			0107	CONGO RIVER GOLF AND EXPLORATION CO., - CLEARWATER, A MICHIGAN CORP.	OPEN	04/10/2006						\$,00

Look for dates in this column

I. AUTHORIZING CONSTRUCTION PROJECTS

1. INITIAL AUTHORIZATION

Construction letting projects must be authorized prior to Advertisement. Schedule of Advertising dates can be found on Production Management’s Website under “Critical Dates.”

For each letting, the Federal Aid Management Office (FAMO) determines the Oversight classification of each project and posts the classification to Production Management's Processing List.

Production Management Office coordinates receipt of required documents known as the Contract Package. The completed Contract Package is forwarded to FAMO on or before the date shown on the Critical Processing Dates list as "To Fed Aid for Assembly of PS&E package." On or before that same date, the district Federal Aid Coordinator submits the Federal Authorization Request (FAR) to FAMO.

Documents as required by the Plans Preparation Manual are listed below.

- Checklist
- Preliminary Engineering Certification
- Utility Certification
- Environmental Re-evaluation (no more than one year old)
- Design Certification (including documentation of design variances on Oversight projects)
- Calendar Days Calculation if the project is Oversight.
- Maintenance Agreement (all off-system jobs)
- CM justification if the project uses Congestion Mitigation Funds.
- Right of Way Certification.
- Estimate (from TRNS*PRT) including summary sheet

FAMO does a quality assurance review of the FAR, assembles the required portions of the package to transmit to FHWA on the Oversight Projects, and transmits the FAR to FHWA. FHWA completes the authorization process by electronically "signing" the authorization.

2. MODIFICATIONS

All project modifications that result in an increase of federal funds must accurately and succinctly describe in the comments why additional funds are justified. Supplemental agreements should be signed by the FHWA area engineer for oversight projects and remain available upon request in accordance with the Department's records retention schedule. Prior approval must be obtained before commencing work. Initial contingency amounts and other non-participating pay items should be coded as non-participating.

3. CLOSING THE PROJECT

Project is identified as potentially ready for final voucher audit (district, FAMO, OOC). For a project to be ready for audit all encumbrances and retainage on all phases must be cleared and appropriate documentation must be in the file.

- **In Preparation for Final Voucher** - An "In preparation for final voucher" modification may be processed to balance to billable amounts as long as encumbrances and retainage are cleared. Project should NOT be placed in Ready Final Voucher mode on the FP55 screen until encumbrances are cleared and documentation is in the file.
- **Ready Final Voucher** - After project is in Ready Final Voucher mode, OOC proceeds with audit. Files will remain available for OOC audit purposed until the audit is complete. The files will be sent to archive for offsite storage in accordance with the Department's record retention schedule when the audit is complete.
- **Audit Completed** - When OOC completes the audit, they send an e-mail requesting a modification if needed. FAMO processes the modification, "Based on OOC FV Audit and to

Close.” The modification should be processed with the project in FV Audit 07 status. This will accomplish both the final modification and the project close simultaneously.

- **Closing the Project** - When the billed amounts equal the agreement and OOC is satisfied that the project is complete, they send an e-mail saying that the project is ready to be closed. At this time, estimates are balanced to commitments in work program. A response is sent to OOC that the status may be changed to FV Audit 07. This is the last opportunity to delete complete years from WP20. District should thoroughly examine work program at this time.

OOC changes the status from Ready Final Voucher to FV Audit 07. After the status of the project has been changed to FV Audit 07 (FV07), the project will be quality reviewed in FAMO to verify that:

- Agreement and expenditures in FMIS and FM are equal for all funds.
- The project has an FV07 Status.
- OOC audit is complete (e-mail from them will be sufficient).
- Project has no pending ARs.
- There is a final acceptance on file (if one cannot be located, check the FMIS screen to see if it has a project completed date indicating that FHWA has the final acceptance and obtain a copy from the FHWA area engineer).

The project will be quality reviewed in FAMO when it is ready to close to verify that all requirements have been met and will be certified and transmitted to FHWA. Once FHWA signs the project in FMIS, the nightly batch approval transaction in FAMS closes the project to an FV Closed09 status.

J. AUTHORIZING DESIGN/BUILD PROJECTS

The following instructions cover the scheduling of the project authorization, preparing the authorization request, and closing the project. Design/Build (D/B) projects are authorized under the Special Experimental Project (SEP) 14 plan approved by FHWA. This annually approved plan governs federal participation in D/B projects. See Part III, Special Contracting Methods chapter of these instructions for more information on SEP 14.

Federal Aid authorization on D/B projects is also subject to the provisions of the Exemption Agreement executed between FHWA and the Department. This agreement identifies types of projects and functions subject to oversight by FHWA and those projects and functions delegated to the Department.

It is suggested that district work program managers and district federal aid coordinators be included in district coordination activities, meetings and correspondence concerning D/B Projects to insure timely programming and federal aid authorization activities.

1. PHASING IN THE WORK PROGRAM

Once a project is identified as a D/B project, it should be decided who is going to perform the services necessary to bring the project to completion (services such as utilities/railroad, permits, geotechnical services, survey, and CEI). Some of these services may be done prior to the D/B contract. However, it is important to ensure that the funds are programmed in the correct category, i.e., in-house or consultant.

D/B contracts will be identified in WPA as phase 52, contract class 9. Depending upon who is to perform necessary services, additional phases may be needed for PD&E work prior to the D/B phase, right of way (R/W) land acquisition and/or R/W services, construction engineering (CEI) services, and/or phases for the payment of compensation to the short-listed firms on D/B projects. The

following guidelines provide more information on when each of these additional phases may be appropriate.

Construction Engineering and Inspection (CEI): FHWA requires that the department provide independent verification testing and oversight inspection outside of the D/B firm's contract. This can be accomplished with in-house forces (phase 61) or with an oversight CEI contract (phase 62). This is true even if the majority of the CEI work is done within the D/B contract and is included in the phase 52.

In-house CEI estimates that are automatically generated by WPA (based on the overall phase 52 level) must be manually revised to represent only the in-house effort required to manage the CEI consultant.

When independent inspection is to be performed by CEI consultants who are not members of the D/B firm and included in the D/B contract, a separate contract shall be advertised and awarded for CEI services (use phase 62).

If R/W services (consultant and support) are to be provided as part of the D/B contract, R/W support will be included in the construction (phase 52) authorization. Consideration must be given to how R/W support will be provided in the eminent domain phase of the project and whether that portion of the total R/W support needs to be authorized separately. R/W land payments and relocation payments must be programmed as Phase 43 and Phase 45 respectively. R/W land and relocation payments can never be programmed in Phase 52. Phases 41 and 49 (in-house support and indirect overhead) will be programmed in accordance with the work program instructions for right of way projects. D/B projects including Right of Way services will still require in-house support.

The District Federal Aid Coordinator should request one Federal Aid Project Number for the entire D/B project, regardless of the number of phases programmed.

2. TIMING OF THE FEDERAL AUTHORIZATION

Unlike regular construction which uses activities/events pertaining to the letting schedule, D/B projects must be authorized **before** the Request for Proposals and Design Criteria Package is published or mailed and **after approval** of the RFP and Design Criteria Package.

RFP and Design Criteria packages for Interstate system capacity projects subject to FHWA Oversight (\$1 million or more) are approved by the FHWA Division office. The FHWA Division office requests up to three weeks to review the RFP and Design Criteria Package before granting their approval. Since several draft submittals and re-submittals can occur, the authorization request is processed only upon final written package approval. For Exempt projects, the district D/B team approves the package. Usually, the district Professional Services Administrator notifies the Federal Aid Coordinator in writing of this approval.

These package approvals are necessary for FHWA participation in the project. The D/B authorization request should be processed immediately upon notice of receipt of package approval. Upon receipt of the approved FHWA authorization, district Federal Aid Coordinators should notify the district D/B team so that the RFPs and Design Criteria packages can be distributed.

D/B projects must be included in the TIP/STIP before the federal authorization can be approved by FHWA.

3. SCHEDULING THE FEDERAL AUTHORIZATION

The Department plans for the obligation of federal funds apportioned and allocated to Florida based upon projects in the adopted work program and their related activities and events in the Project Scheduling System. Major D/B projects consume significant amounts of these funds. The Federal Obligor Authority Plan includes D/B project fund commitments in months when the authorization is needed as defined by the scheduled Activity/Event.

A Project Scheduling System Activity/Event has been established to plan for the future obligation of federal funds and also to schedule the anticipated date of package approval. The PSM code is: "RFP/DES BUILD PKG APPROVAL" – Activity/Event No. 285

Regardless of the Oversight or Exempt project nature or type of D/B (Adjusted Score or Low Bid), this Activity/Event is to be scheduled in PSM when the project is incorporated into the work program.

4. PREPARING THE FEDERAL AUTHORIZATION

Since R/W must be certified clear with environmental determinations and permitting complete before the RFP Design Criteria Package is approved, these activities normally will be authorized with federal funds in advance of the D/B authorization. Therefore, district work for Project Development phases should serve as the basis for the **original federal project authorization**, followed by R/W (survey and acquisition) if required.

The sequence of federal authorizations is as follows:

- PD&E advance activities are included in the original project authorization
- Authorization modification for R/W, if required
- Authorization modification for D/B.

Note: If the RFP package includes a provision to pay compensation to short-listed firms on an Adjusted Score D/B project, the authorization request will include a work program Phase 32 for the compensation with the D/B Phase 52 and CEI Phase.

- Work program phase estimates for D/B (Phase 52) and CEI (Phase 61 and/or 62) and the FHWA federal aid authorization previously established, will need to be adjusted after the contract is awarded. Generally, these contract price adjustments should occur in the month following D/B contract award.
- **For district-let D/B oversight projects, the district must ensure that the FHWA area engineer has provided concurrence in award via e-mail or formal letter to be included in the Central Office, Federal Aid Management Office files and district Procurement Office files. The EDMS loading doc could also be a place where it would be convenient to store such relevant documentation. Each year Florida's Auditor General conducts a Federal Awards audit and this information must be readily available upon request and must be provided to the Central Office, Federal Aid Management Office letting coordinator as soon as it becomes available.**
- Final authorization modification for project closeout, if needed, to balance authorization to final expenditures.

5. RIGHT OF WAY (R/W):

If R/W services are included in the D/B contract, the request for federal authorization for each D/B project shall include a R/W certification signed by the district Right of Way Manager. The certification may be either a certification for construction or a certification for authorization and advertisement. The certification for construction shall state that either no additional R/W is required for the project, or additional R/W was required for the project and all R/W activities have been completed in accordance with applicable federal and state requirements. The certification for authorization and advertisement shall state that additional R/W is required for the project, that the necessary processes and procedures are in place to address R/W issues, and appropriate controls have been included in the D/B contract to ensure construction activities do not commence prior to the Department's certification that all R/W activities have been completed in accordance with applicable federal and state regulations

On federally funded projects, federal authorization is required prior to beginning any R/W activities. For those projects which include R/W services in the D/B contract, authorization for R/W land may be obtained at the same time as the authorization for the D/B contract as long as the Department has controls established by contract to preclude the start of negotiations prior to NEPA approval. R/W maps, title information and legal descriptions must also be complete prior to the start of negotiations.

6. DOCUMENTATION REQUIREMENTS FOR FEDERAL AUTHORIZATION

The form of documentation requirements for D/B is different from regular construction projects. D/B authorizations with federal funds, whether Oversight or Exempt, should be supported by:

- R/W clear certifications
- Written FHWA or district D/B Team approval of the RFP and Design Criteria Package
- For projects exempt from FHWA's project level oversight, the state is required to assure these projects meet the 12 D/B Operating Parameters described in FHWA memo to the Department dated December 19, 2001, and reproduced as part of Federal Aid Technical Bulletin 02-03 (may be found on Federal Aid Management Office's Infonet site. This statement may be made via email but must come from the project manager or the district production director.
- Signed electronic signature forms from FHWA authorizing funds for the project

The RFP and Design Criteria package documentation should confirm that other applicable checklist items, such as utilities and permits and NEPA status, are complete.

See DOT Procedure Topic Number 625-020-010 – Design Build Procurement and Administration, for additional information.

K. AUTHORIZING LOCAL AGENCY PROGRAM (LAP) PROJECTS

Local Agency Program (LAP) Agreements executed between the Department and local LAP certified government entities may include more than one phase of work. Locals may be performing design phases (including PD&E) and right of way (R/W) acquisition phases as well as the construction phase.

FHWA presently requires 1) the PE phase is complete and 2) R/W (if any) is certified clear before the construction phase can be authorized. This means that **encumbrances and federal authorizations must be requested by phase of work**, not for the entire amount of the LAP Agreement, unless the Agreement only includes a single phase of work (PE, R/W, or Construction).

LAP Agreements must contain language stating that: **“Encumbrances and federal authorizations can only be requested for the cost of the first phase of work included in the LAP Agreement. Subsequent phases of work, if any, must request additional encumbrance and federal authorization before a Notice to Proceed can be issued to begin the subsequent phase of work.”**

Construction LAP projects must be authorized before the project will be encumbered.

The FAR is transmitted to FAMO for authorization, and the authorization process is completed in the same manner as for regular construction projects. The request for authorization from the district must contain an assertion that the Preliminary Engineering phase of the project is complete.

LAP Project Certification Process:

To ensure compliance with all Federal-aid requirements, a checklist will be used to verify and reference the corresponding construction contractual documents. The process will be as follows:

- The Local Agency and the district LAP Administrator will review the contract documents, reference the location of the requirements, and sign indicating that the project complies with all requirements in the checklist. The entire package will be submitted to the State LAP Administrator and an e-mail will be sent to the district federal aid coordinator by the district LAP administrator so they can begin preparing the project for review in the Federal Authorization Management System (FAMS).
- The State LAP Administrator will review the package and determine if it meets all of the requirements. If more information or clarification is needed, it will be returned to the district LAP administrator for correction.
- Once the State LAP Administrator signs off on the checklist for these projects, he will send the contract package and the original checklist back to the district LAP administrator to be retained in their files. He will also send a copy of the signed checklist to the Federal Aid Management Office (FAMO) for retention. The State LAP Administrator will send an e-mail to the district federal aid coordinator and district LAP administrator upon certification so that they can put the project in review for submission to the FAMO. In addition, the district LAP administrator needs to make sure a copy of the signed checklist is sent to the district federal aid coordinator.
- The district federal aid coordinator will place the date of the State LAP administrator signature, in the field in FAMS designed to store this information.
- Projects that were previously authorized will still need to go through the LAP Project Certification process before any subsequent authorization modifications will be processed (including modification to convert Advanced Construction projects to regular funds).

L. AUTHORIZING NATIONAL BRIDGE INSPECTION PROGRAM

The NBIS program is a districtwide program that will fall under the rules outlined in Chapter 5: Section D of this part of these Instructions and will be subject to the 5 year limitation unless a documented exception is obtained from FHWA. The work type should be entered as “Special Bridge” in FAMS. Each district should request to have an on-system and an off-system number set up, every two years.

The project must be in the approved Statewide Transportation Improvement Program (STIP) prior to authorization. Contact your district representative in FAMO for assistance. The route number for these FAP No.'s will begin with NBIS.

M. AUTHORIZING INTELLIGENT TRANSPORTATION SYSTEM (ITS) PROJECTS

Intelligent Transportation System projects must be sent to the FHWA ITS engineer for determination of oversight status. If the project is designated as oversight, Task Work Orders or Scope of Services must be approved by the FHWA ITS Engineer prior to authorization. Modifications that increase the total project cost or significantly change the approved scope must also be approved by the FHWA ITS Engineer.

The Route Numbers assigned to ITS projects will be assigned in the format (ITS#-xxx), where the “#” is representative of the district and the “xxx” is the next sequential improvement number.

N. AUTHORIZING PROJECTS IN LOCAL GOVERNMENT ADVANCE/REIMBURSEMENT PROGRAM WHERE REPAYMENT IS WITH FEDERAL FUNDS

It is not necessary to associate the A8 payback phase of a project in FAMS because this would create an inflated appearance and overstate the financial impact of the project. The locals are providing the funds to the Department to advance the project into a more current year of the adopted work program and they will be paid back when the project was originally scheduled. A note should be added on the Federal Project Information (FP Info) screen in FAMS indicating that the A8 phase does not need to be associated.

O. AUTHORIZING PROJECTS WITH STATE INFRASTRUCTURE BANK (SIB) LOANS WHERE REPAYMENT IS WITH FEDERAL FUNDS

The State Infrastructure Bank (SIB) is a revolving loan and credit enhancement program consisting of two separate accounts. The federally-funded SIB account is capitalized by federal money matched with state money as required by law; the state-funded SIB account is capitalized by bond proceeds and state money only. SIB funds may be loaned to a variety of public and private entities, and may be used for various forms of financial assistance such as subordinated loans, interest subsidies, letters of credit, capital reserves for bond financing and construction loans.

Federal payback of SIB loans federalizes the entire project and all normal federal requirements must be fulfilled prior to letting the project. Additionally, all repayments with federal (FHWA) funds must be authorized in FAMS for the total of all future loan repayments before any loan proceeds are disbursed.

The estimate summary sheet for letting projects should not include the payback phases because this would potentially make the project appear to be in excess of the STIP/TIP amendment threshold.

All right of way land acquired using the federally-funded SIB must be in compliance with Public Law 91-646, Uniform Relocation Assistance and Real Property Acquisition policies Act of 1970, as amended and all state/federal laws and rules governing Right of Way acquisition by FDOT.

See Part III – Programming Guidelines, State Infrastructure Bank for additional guidance and programming examples.

P. AUTHORIZING PROJECTS WITH TRANSPORTATION INFRASTRUCTURE FINANCE & INNOVATION ACT (TIFIA) LOANS

The Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA) established a new Federal credit program under which the United States Department of Transportation (USDOT) may provide three forms of credit assistance - secured (direct) loans, loan guarantees, and standby lines of credit for surface transportation projects of national or regional significance. The program's fundamental goal is to leverage Federal funds by attracting substantial private and other non-Federal co-investment to help finance critical improvements in the nation's surface transportation system. The USDOT uses a merit based system to award credit assistance to project sponsors for eligible projects, taking into account statutory selection criteria. After approval of a project and completion of negotiations, the USDOT executes a credit agreement that is the definitive legal agreement between the USDOT and the project sponsor specifying all terms and conditions of the TIFIA credit assistance.

Although the repayment is with state funds, a project that includes federal TIFIA loans as part of the funding becomes federalized. A Federal Aid Project Number will not be assigned since TIFIA doesn't flow through our normal federal authorization process. TIFIA loans are obtained through electronic funds transfer directly from FHWA into the State Transportation Trust Fund, well ahead of the time of the construction letting. There may be times when a FAP No. will be assigned for tracking purposes and additional assurance that oversight responsibilities are being fulfilled.

Nonetheless, if any part of a contract is funded by federal dollars then the entire contract becomes federalized and subject to all the federal contract provisions such as Davis-Bacon, Buy America, etc.

See Part IV, Chapter 1 of these instructions for more detail or <http://tifia.fhwa.dot.gov/>.

Q. AUTHORIZING FEDERAL LANDS HIGHWAYS PROJECTS

The Eastern Federal Lands Highway Division holds a program meeting with Federal Aid Programs Office, district representatives, Federal Highway Administration, and Forest Services.

The following items are discussed at the program meeting:

- Status of Forest Highway funds
- Prioritized list of projects
- Status of current projects
- Funding plan for current FY plus next 4 years

The funds must be used within 4 years and the Federal Share is 100%.

- District Federal Aid Coordinator will request authorization based on the obligation plan.
- District Federal Aid Coordinator creates a Federal Authorization Request by entering data into FAMS and submits request to Federal Aid Management Office for review.
- Federal Aid Management Office will review the Federal Authorization Request and place in a certified status.
- Federal Aid Management Office will also create a PR1240/2 for the initial authorization or modification for submittal to Eastern Federal Lands Highway Division.
- The Federal Aid Program Manager must sign the original PR1240/2.
- A copy of the PR1240/2 is placed in the file.
- The original PR1240/2 is mailed to Eastern Federal Lands Highway Division.

R. AUTHORIZING FEDERAL EARMARKS

Once allocations have been received, the district federal aid coordinator should email their central office representative for a number assignment. A map, if applicable, should also be attached to the email, requesting a federal aid number.

Once received, the district federal aid coordinator can submit a Federal Authorization Request (FAR). The FAR should be submitted based on the following criteria:

Federal Appropriation Category	WP FUND	PROGRAM	FAP ROUTE ID	FEDERAL SHARE	SOFT-MATCH OR STATE MATCH
4130, F13E, and F130	PLHD	Public Lands Highway Discretionary Program	PLH_*	100%	None
HY10, HY20, LY10, and LY20	HPP	High Priority Projects	SFTL-DEMO ID	80%	Toll credits can be utilized in lieu of matching with state funds; therefore, federal share can be increased to 100% with no additional non-federal funds required.
LY30	TIMP	Transportation Improvements Projects	SFTL-DEMO ID	90% - Interstate 80% - Non-interstate	Toll credits can be utilized in lieu of matching with state funds; therefore, federal share can be increased to 100% with no additional non-federal funds required.
LY60	S112	Section 112 of the Transportation, Treasury, Housing and Urban Development, the Judiciary, District of Columbia, and Independent Agencies Appropriations Act	S112-DEMO ID	100%	None
H020, L020, and L02E	IMD	Interstate Maintenance Discretionary	IMD_*	90%	Toll credits can be utilized in lieu of matching with state funds; therefore, federal share can be increased to 100% with no additional non-federal funds required.
HX20HX80 5L2E 5L20	IBRC	Innovative Bridge Research & Construction (Discretionary)	IBRC	100%	None
92C0 92E0 Q680 H680 L680 L68E	TCSP	Transportation, Community, and System Preservation Program (Discretionary)	TCSP	81.93%	Toll credits can be utilized in lieu of matching with state funds; therefore, federal share can be increased to 100%

					with no additional non-federal funds required.
H880 L880 L88E	VPPP	Value Pricing Pilot Program (Discretionary)	VPP_*	80%	Toll credits can be utilized in lieu of matching with state funds; therefore, federal share can be increased to 100% with no additional non-federal funds required.
3270 Q950 H950 L950 L95E	FBD	Ferry Boat Discretionary	FBD_*	80%	Toll credits can be utilized in lieu of matching with state funds; therefore, federal share can be increased to 100% with no additional non-federal funds required.
3330 Q970 L970 L97E	SB	National Scenic Byways Program (Discretionary)	SBF_*	80%	Toll credits can be utilized in lieu of matching with state funds; therefore, federal share can be increased to 100% with no additional non-federal funds required.

* Last digits should be representative of the district where the project is located.

Specific earmarks identified in the act (other than Discretionary Programs) and High Priority Projects should be assigned a Federal Aid Number with an SFTx route number and improvement number that matches the allocation in the act (i.e. FL-154). When the time comes for a new number to be assigned for R/W, the improvement number for the earmark will stay the same and the Route, SFTL, will change to SFT1 for R/W and SFT2 for Construction. For example, SFTL-154 was for the PE phases, SFT1-154 for R/W and SFT2-154 for the Construction phases.

The Federal Authorization Management System (FAMS) has been modified to accept more than one Demo ID per project following the updates to FHWA’s implementation of this same functionality.

S. REQUIRED STATISTICAL INFORMATION IN FAMS AND FMIS

1. ENVIRONMENTAL CLEARANCE INFORMATION

The date (month, day, & year) must be present on Federal Authorization Requests for all environmental clearances.

For our purposes, one of the following must be used for the Categorical Exclusion:

- Programmatic (Programmatic under FDOT PD&E procedures)
- State Documented (Type I under FDOT PD&E procedures)
- FHWA Documented (Type 2 under FDOT PD&E procedures)

Other environmental clearance type data selections when issued by FHWA are available options from the drop-down menu when applicable (i.e.: Environmental Assessment, Finding of No Significant Impact (FONSI), or Environmental Impact Statement (EIS)).

2. CONGRESSIONAL DISTRICTS

If a new line is being added to the project, the “Does FMIS have this district?” checkbox should be “No” the first time that line is transmitted. When FHWA issues guidance about the new Congressional District Boundaries and Redistricting from the 2010 Census that became effective in January 2013, FDOT will issue additional guidance on how to update federal aid projects with this information. Until FHWA updates their new County/Congressional District validity check table, please use the boundaries of the 2012 Congress.

3. PROJECT COMPLETION AND ESTIMATED CONSTRUCTION DATES

The “Project Completed” date in FAMS should be entered from the final inspection date that the resident engineer signed the “Final Inspection and Acceptance of Federal-Aid Project” form number 700-010-032 available at: <http://formservr.dot.state.fl.us/MiscRepository/forms/70001032.pdf>. These may be signed by a local public official if an engineer is not on staff but may not be signed by a consultant.

The “Estimated Construction” date field should be the day that construction is anticipated to begin and should always be prior to the project completion date.

Project completion dates are not required on the project for R/W and PE phases unless Earmark, Demonstration, or Discretionary funds are being utilized.

T. USING THE “COMMENTS” AND “NOTES” FIELDS IN FAMS AND OTHER MISCELLANEOUS INFORMATION

In general, comments should summarize the modifications being requested on the project. These will be transmitted with the project and will be reviewed by FHWA prior to approval. They should not include information which is FDOT specific, such as phase numbers or obscure activity work codes which may be superfluous information to FHWA.

Notes, on the other hand, which are reviewed by both the district and CO Federal Aid staff, are an excellent method of capturing any relevant information to explain irregularities, status changes, special exceptions, dates, or other useful information. These are not transmitted to FHWA and will appear each time project edits are generated during the review process.

1. BOILERPLATE CONTRACT LANGUAGE FOR LAP PROJECTS

This provision has been added to new Local Agency Program (LAP) and Joint Participation Agreements (JPA), and emergency agreement contracts.

LAP example:

“If Agency fails to timely perform its obligations in submitting invoices and documents necessary for the close out of the project, and said failure results in a loss of the remaining unbilled Federal (FHWA) funding either by Federal withdrawal of funds or loss of State appropriation, Agency will be responsible for the remaining unbilled federal funds on the project. No other funds will be provided by the Department. Agency waives the right to contest such removal of funds by the Department, if said removal is directly related to Federal (FHWA) withdrawal of funds or loss of

State appropriation due to local Agency's failure or nonperformance. In addition to loss of funding, the Department will consider de-certification of said Agency for future LAP projects.”

The Comptroller's Office, in consultation with the General Counsel, has updated the Emergency Local Government Emergency Relief Agreement, Form No. 350-000-15 and the Financial Provisions for Joint Participation Agreements (NON-FLP), Topic No. 350-020-301, have been updated to reflect the suggested language below.

The boilerplate language for agreements that are funded by FHWA must be updated to include the following language:

“The Agency shall be fully responsible for the proper billing of any federal reimbursable costs or charges, including those incurred by its contractors and subcontractors. The agency shall timely submit invoices and documents necessary for the close out of the project.

The Agency agrees to promptly reimburse the Department for any and all amounts for which the Department has made payment to the Agency if such amounts become ineligible, disqualified, or disallowed for federal reimbursement due to any act, error, omission, or negligence of the Agency, including missing or deficient documentation of costs and charges, untimely, incomplete, or insufficient submittals, or any other reason declared by the applicable Federal Agency. The Agency agrees that the Department may offset such amounts from payments due for work or services done under any agreement between the parties if payment for the Agency is not received by the Department after *(Generally 90)* days of written notice from the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.

The Agency understands that if it fails to timely perform its obligations, or timely submit invoices and documents necessary for the close out of the project, the maximum limiting amount may become unavailable or reduced due to a removal or withdrawal of federal funds or a loss of state appropriation, and the Department will have no obligation to provide funds from other sources. The Agency agrees that in the event the maximum limiting amount of this Agreement is reduced by such removal, withdrawal, or loss of funds, the Agency will be solely responsible for payment of costs and outstanding invoices no longer reimbursable due to the loss of funding.”

In addition, if there is not already a start date in the agreement, language must be added setting a date certain by which the project must begin or the agreement becomes null and void. There should already be an end date. This will allow us to pull the funding if the project does not start in a timely manner and FHWA requires the funds to be deobligated.

2. FDOT FINAL INSPECTION AND ACCEPTANCE FOR EMERGENCY RELIEF (ER) PROJECTS

There is a new Final Inspection and Acceptance website available for use on State Administered (exempt) projects. The site is accessible from the Infonet → Offices → Work Program SharePoint → Work Program Applications → Federal Project Information → Final Acceptance Form, which will link to the following location:

<http://webapp02.dot.state.fl.us/fmsupportapps/federalaid/FinalAcceptance.aspx>

The form should be processed by contract number. All the financial project numbers, the amounts for each financial project, DDIR number(s), and Federal Aid numbers will appear and can be selected for inclusion in the automated form.

Final Inspection and Acceptance for a contract that has more than one Federal Aid Project Number or multiple projects that will be completed at different times may be closed by financial project number(s). When the contract number is entered, the form will be populated with all of the associated phase/project(s) which are associated to that contract number and only those portions of the contract that are being final accepted should be selected. If all of the associated financial project numbers are not selected, when the Print Suitable format button is selected, a note will be automatically inserted indicating: **NOTE: This is a partial contract closeout.**

3. INTERSTATE PROJECTS AND CAPACITY WORK MIXES

Projects on the Interstate which are adding capacity through lanes will default to an 80/20 participation rate in FAMS for the soft-match calculation. Projects will still be entered at 100% on the AR Detail and the soft-match will be displayed on the FAR Update screen once the project has been submitted to review.

Projects for the reconstruction or new construction of bridges, interchanges, and over crossings along existing Interstate routes, including the acquisition of right-of-way where necessary are not considered capacity and is eligible for 90% participation.

If there is any capacity work on the project that is adding through lanes, we will soft-match at 80/20. The amount of state and local funds associated to the project will affect the actual amount that is recorded for the project for the soft match calculation. Some work mixes are optional, such as 0022 - Bridge Replacement, as to whether capacity is being added. The FP Info page must be updated prior to any authorization requests being pulled. The system will not allow a pending authorization until this field has been updated by the district Federal Aid Coordinator. This determination should be made based on the plans and in consultation with the project manager.

The following work mixes have been identified as capacity work types and will default to Added Capacity in the system:

- 0002 NEW ROAD CONSTRUCTION
- 0020 NEW BRIDGE CONSTRUCTION
- 0023 BRIDGE-REPLACE AND ADD LANES
- 0025 BRIDGE-REHAB AND ADD LANES
- 0213 ADD LANES & RECONSTRUCT
- 0218 ADD LANES & REHABILITATE PVMNT
- 0547 ADD THRU LANE(S)
- 2000 RIGHT OF WAY - FUTURE CAPACITY
- 9982 PRELIM ENG FOR FUTURE CAPACITY

If any other funds such as Urban (SU) are to be used on the Interstate, the 1.93% additive for sliding scale should not be included.

4. PAYBACK PHASES FOR LOCAL GOVERNMENT REIMBURSEMENTS

A note should be added on the Federal Project Information (FP Info) screen in FAMS indicating that the A8 phase does not need to be associated if it is part of a local government reimbursement.

5. EDIT ERRORS

Any edit error that cannot be corrected must include a legitimate explanation to proceed with Federal Aid Authorization. Certification and transmission of projects with edit errors will be evaluated by the FAMO coordinators in central office on a case by case basis.

6. ESTIMATING FUEL OVERRUNS

FHWA has approved authorizing the estimated fuel/bituminous overruns that are expected to occur over the lifecycle of a construction project. These will be tracked by pay item and Activity 209 and will periodically be adjusted to actual amounts as other modifications to the project are needed. This should reduce the number of authorization requests for the project in the Federal Authorization Management System because the funds would be authorized in advance.

Please do not encumber these amounts. The Office of Comptroller's current process will continue and they will be paid as unencumbered disbursements.

Please indicate in the FAMS comments the amount of the modification and that the increase is for "Anticipated Fuel/Bituminous Adjustments." The estimate should be added to the phase 52 of the construction project based on current prices and the remaining term of the contract.