



Policy Update – August 25, 2022

US Congress – The US House of Representatives and US Senate will return to Washington after Labor Day. The House will remain in session for the month of September and then return home to campaign for the November mid-term elections. The Senate will also leave Washington at the end of September, but according to its legislative calendar, Senators are scheduled to return to the Capitol for two weeks in mid-October. One of the primary “to-dos” will be to ensure that the Federal government stays open past the end of September when the fiscal year wraps up. We don’t expect Congress to pass a continuing resolution (CR) until some time after the November elections and then return to DC to complete the 2023 appropriations. In the past, depending on the outcome of the elections, Congress has not completed appropriations until the new year because the majority in Congress changes party. We are not predicting the outcomes of the election but reminding you that resolution to federal spending in FY23 could take longer. Also, as a reminder, spending under a CR will be held at FY22 levels for the duration of the CR, except for a few programs like IJJA transportation program funded with the advanced general fund appropriations.

Inflation Reduction Act - President Biden signed the Inflation Reduction Act into law on August 16th. The law includes billions for transportation projects targeted at neighborhood investment and reconnecting communities.

\$1.893 billion for a NEW Neighborhood Access and Equity grant program that provides competitive grants for a variety of purposes that look like projects under the IJJA’s Reconnecting Communities Pilot Program, Active Transportation Infrastructure Investment Program, and Healthy Street Program

- Grants to improve walkability, safety, affordable access through construction of projects to remove or reuse an existing facility, to retrofit or cap a facility, to build or improve complete streets, or active transportation networks, for planning and capacity building activities in disadvantaged or underserved communities.
- MPOs are eligible.

\$1.262 billion for investments in Economically Disadvantaged Communities for the same kind of FHWA grants under the Neighborhood Access and Equity program, but specifically for communities that are economically disadvantaged.

The Federal share for these programs shall be not more than 80 percent, except that the Federal share of the cost of a project in a disadvantaged or underserved community may be up to 100 percent.

\$50 million for FHWA for:

- Guidance, technical assistance, templates, training, or tools to facilitate efficient and effective contracting, design, and project delivery by units of local government.
- Subgrants to units of local government to build capacity of such units of local government to assume responsibilities to deliver surface transportation projects.

CLIMATE & CLEAN ENERGY - The bill proposes investing \$369 billion in energy security and climate change programs over the course of the next 10 years.

Decarbonize the Economy: The bill would invest in reduction of carbon emissions via tax credits for clean energy sources; \$30 billion in targeted grant and loan programs; tax credits for clean fuels and commercial vehicles; grants and tax credits to reduce emissions, including \$6 billion for a new Advanced Industrial Facilities Deployment Program; over \$9 billion for Federal procurement; \$27 billion for clean energy technology accelerator; and a Methane Emissions Reduction Program.

Environmental Justice: The bill includes over \$60 billion for environmental justice programs including: Environmental and Climate Justice Block Grants; Neighborhood Access and Equity Grants; Ports Air Pollution Reduction Grants; \$1 billion for clean heavy-duty vehicles; and additional programs focused on disadvantaged and low-income communities. This includes roughly \$3 billion for environmental justice block grants, such as \$20 million for technical assistance at the community level. Additionally, the bill allocates over \$3 billion for air pollution monitoring in low-income communities.

Rural Communities: The bill would make investments in rural communities including over \$20 billion to support climate smart agriculture practices; \$5 billion in grants to support forest resiliency programs, conservation, and urban tree planting; tax credits to build infrastructure for sustainable aviation fuel and other biofuels; and \$2.6 billion in grants for conservation and restoration of coastal habitats.

Electric Vehicles: The bill includes provisions for a \$4,000 tax credit for lower and middle-income buyers for the purchasing of used EVs, and up to \$7,500 tax credit for new EVs.

August 2022 Membership Webinar Q&A

When an MPO produces a Safety Action Plan or Resiliency Plan, does it necessarily cover its member agencies? Or do those member agencies with jurisdiction over the infrastructure need to have their own compliant plans or policies? **(Answer provided by USDOT)**

If the Action Plan meets the requirements set out in the [Self-Certification Eligibility Worksheet in the NOFO](#) and covers the region under the jurisdiction of the member agency, then yes, it would be eligible for that entity (or an entity meeting the requirements for an eligible applicant, if it were not under their jurisdiction) to apply for an Implementation Grant. (See answers to PROTECT below.)

The PROTECT implementation guidance that came out last Friday seems to say that only a Statewide Plan has the 7% reduction. We set-aside funds to revisit our Critical Transportation Infrastructure Vulnerability Assessment to create a compliant plan. There doesn't seem to be an advantage to creating a Resiliency Plan at the MPO level vis-a-vis increased federal share. We would reference a Statewide Plan in our Long-Range Plan to get the extra 3%. **(Answer provided by USDOT)**

Under the PROTECT [Formula](#) Program, all non-Federal share reductions require a State Resilience Improvement Plan. State DOTs are the only eligible entities under the PROTECT Formula Program; therefore, the reductions in non-Federal share under the PROTECT Formula Program only apply to the development of a State Resilience Improvement Plan that prioritizes the project (7% reduction), and incorporation of a State Resilience Improvement Plan into the State or metropolitan long-range plan (3% reduction).

For a project within an MPO area, a non-Federal reduction of 7% could be applied if the project has been prioritized on the State Resilience Improvement Plan. In this example, an additional 3% reduction in non-Federal share could be applied if the MPO incorporated the State's Resilience Improvement Plan into its metropolitan long-range plan.

While we encourage MPOs to develop Resilience Improvement Plans and consider these plans as an integral part of their transportation planning processes, the MPO Resilience Improvement Plans are not required for receiving reductions in non-Federal share for PROTECT [Formula](#) Program funds.

We anticipate that under the PROTECT Discretionary Grant Program, the non-Federal share of the cost of a project may be reduced if an MPO has developed a Resilience Improvement Plan and prioritized the project on that Resilience Improvement Plan; and if the MPO Resilience Improvement Plan is incorporated (directly or by reference) into the metropolitan transportation plan under 23 U.S.C. 134 or the statewide long-range transportation plan under 23 U.S.C. 135, as applicable. Further information on the PROTECT Discretionary Grant Program will be provided with the Notice of Funding Opportunity, hopefully later this year.

We recently learned that the PROTECT grant program will allow federal funds to be used for the "non-federal" match. Any word if MPOs can use federal funds for the non-federal match on other discretionary grant programs?

- This is not a discretionary program per se, but HSIP formula funds can be used as non-fed match for qualifying TAP safety projects
- Rural Surface transportation
- Bridge investment program – but capped at 80% federal assistance
- Reconnecting Communities Capital Construction Grant (grants are for 50% of total costs) – but capped at 80% federal assistance

Are Toll Credits eligible to be used for the non-federal share (specifically for the PROTECT program)?

Yes. Federal law permits States with toll facilities to earn credits that can be applied towards the non-Federal share requirement on Federal-aid projects. A State may apply toll credits towards the non-Federal share requirement for programs authorized under title 23, U.S.C., or chapter 53 of title 49, U.S.C., except for the Emergency Relief program authorized by 23 U.S.C. 125. FHWA guidance is found [here](#). More information on toll credits can be found [here](#).

Does the PROTECT program funding that is allocated by formula to states just go towards state projects or is that available to MPOs as well or is that a decision that each state will make?

PROTECT Formula Program funds are apportioned to the State, and it is up to the State to decide how to program the funds. MPOs should contact their relevant State DOT and FHWA Division office for more information on how the State will utilize the PROTECT Formula Program funds. FHWA encourages State DOTs to partner with MPOs and local agencies, including counties and

cities to ensure that the needs of all users across all transportation modes are addressed through planning to address climate change and extreme weather event resilience needs.

Any news on the FHWA Adjusted Urban Boundary Adjustments?

The lists of urban areas with 2020 Census population, housing units, and land area along with the Urban Areas Maps will be published in December. The release schedule can be found [here](#). In the meantime, if you have any further questions or concerns, please contact us.

Thoughts yet on the gist of AMPO's GHG comments?

Not yet. AMPO has initiated a review process of the NPRM and will be engaging the AMPO Air Quality and Performance-based Planning and Programming Working Groups, as well as the AMPO Policy and Technical Committees, to develop comments. The comments will be reviewed and approved by the AMPO Board of Directors for submission. The comments will be shared with the AMPO general membership ahead of the submission deadline of 10/13/22.

FHWA Posts Competitive Grant Matrix - can be found [here](#).

[Grants | US Department of Transportation](#)

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