



# Policy Update

January 20, 2022

**Federal Highway Administration (FHWA) Apportions FY22 IIJA/BIL Funding** – The FHWA has apportioned [Federal-aid highway program funds](#), [Bridge Program formula funds](#), and Federal-Aid Highway [program obligation limitation](#) under the Infrastructure Investment and Jobs Act (also referred to as the Bipartisan Infrastructure Law). States were formally given \$52,488,065,375 billion in highway contract authority for FY22 to obligate Federal funding for programs such as STBGP, NHPP, HISIP, PL and other Highway Trust Fund programs. It provided \$438,121,139 in contract authority for metropolitan planning in FY22. FHWA also apportioned \$5,500,000,000 for the new bridge replacement, rehabilitation, preservation, protection, and construction formula program (Bridge Formula Program (BFP)), which became effective immediately upon notification. More on the obligation limitation in the next section.

**Congress faces February 18<sup>th</sup> deadline to keep the government open and provide the full spending levels promised in the IIJA.** Congress returned to Washington this week with a full slate of legislative items to address and one of those items is to complete the Federal budget for FY22, of which over three months have passed. The current continuing resolution (CR) keeping the federal government open expires on February 18<sup>th</sup>. Until Congress enacts a full year appropriation, all Federal programs are held at FY21 levels. This includes transportation funding even though the new infrastructure bill was signed into law. The CR will hold the increased spending (obligation limitation) promised in the IIJA at 2021 levels prorated until February 18<sup>th</sup>. This is standard practice under a CR. Until Congress completes their work on a full year appropriations bill, the total amount in FY22 that can be obligated via project agreements is limited to just \$14,110,186,832.

The current CR sets an overall limitation on obligations at an annual rate for operations of \$46,365,092,000 for FY 2022. This annual rate for operations is equal to the obligation limitation made available in FY 2021. The IIJA limitation on obligations is \$57,473,430,072. The current CR covers the period beginning on October 1, 2021, and ending on February 18, 2022 (141 days). The pro-rata for that period is 38.63 percent (141 days divided by 365 days). The pro-rata is applied to the distribution of obligation limitation calculated based on the annual rate for operations. Therefore, the total obligation limitation provided under the CR is \$17,910,835,040 (\$46,365,092,000 multiplied by 38.63 percent). \$3,800,648,208 is reserved for allocated programs at USDOT, and penalties on states.

Congress needs to pass a full year 2022 appropriations bill that includes an obligation limitation at the levels promised in the IIJA - \$57,473,430,072. Without the legislative change, FHWA programs will lose \$11,108,338,072. Mass transit has the same problem to the tune of roughly \$3 billion.

The CR also prevents new programs under the IIJA from beginning. According to the FHWA notice *“Section 104 of the Continuing Appropriations Act, 2022 prohibits the use of that liquidating cash for expenditures from Federal-aid highway programs that were not authorized and funded in FY 2021. This includes new programs authorized under the Bipartisan Infrastructure Law.”* This means that even though contract authority was provided to the new PROTECT and Carbon Reduction program, the programs cannot move forward until Congress makes the legislative changes on the appropriations bill.

AMPO has signed onto a stakeholder letter requesting that Congress fix the problems the CR has created. Once the letter has been finalized and sent, we will share with members.

The impact of the CR only covers the Highway Trust Fund programs. In FY22 the IIJA also provides \$6.2 billion in advance appropriations to be distributed via formula (\$5.3 billion for a new bridge program, \$831 million for a new electric vehicle charging program, and \$67 million in additional ferry boat funding). These appropriations are not covered by the ban programs starting in FY22.

[Bipartisan Infrastructure Law | FTA \(dot.gov\)](#)

[Bipartisan Infrastructure Law - FHWA | Federal Highway Administration \(dot.gov\)](#)

**USDOT announces “NOFO” for the RAISE grant program.** Below is a link to the 2022 RAISE Grant notice of funding opportunity. It has not yet been published in the Federal Register, but AMPO will continue to monitor this. The notice is only eight pages long and provides some very basic information included in past NOFOs. It would seem the primary goal of the NOFO was to comply with the statutory deadline in the IIJA, requiring the NOFO be published 60 days from enactment of the bill into law. As you can see the NOFO contains “The Department intends to amend this Notice to provide more details on or before January 30, 2022” throughout the document. Anticipate more detailed information coming in the next two weeks. Applications are due April 14<sup>th</sup>.

Access the link to the 2022 RAISE Grant notice of funding opportunity [here](#).