



April 8, 2022

Ms. Stephanie Pollack
Deputy Administrator, Federal Highway Administration
1200 New Jersey Ave SE
Washington, DC 20590

Re: Infrastructure and Investment Jobs Act Request for Information
(Docket No. FHWA-2021-0021)

Dear Deputy Administrator Pollack:

The Association of Metropolitan Planning Organizations (AMPO) and the National Association of Regional Councils (NARC) are writing to jointly request consideration of the following comments in response to the Request for Information (RFI) (Docket No. FHWA-2021-0021) that was published in the Federal Register on December 1, 2021. We appreciate the opportunity to provide these comments on behalf of metropolitan and regional entities from across the country.

Together, our organizations represent metropolitan planning organizations and regional and rural planning organizations from across the country. Our organizations work on behalf of metropolitan and regional government entities that carry out the transportation policy and planning requirements resulting from Congressional legislation and Federal regulations as well as the allocation and investment of federal funds. Cities, counties, and townships own and maintain almost 3.1 million miles of America's roads, making up almost 80% of the national road network. Metropolitan and regional government entities serve a critical role in working with stakeholder agencies to deliver safe, reliable, and equitable multi-modal transportation networks that are accessible to all.

The passage of the *Infrastructure Investment and Jobs Act* (IIJA) is a historical investment in the nation's infrastructure resources. The implementation of the IIJA is a crucial step that will help ensure the funding provided is as impactful and transformative as possible and that communities of all sizes and geographies receive the benefits that this funding will allow.

With these important considerations in mind, NARC and AMPO convened directors and staffs from our diverse membership and asked them to consider how to implement the IIJA to generate the greatest return on investment by ensuring the greatest impact. On behalf of our national memberships consisting of regional and metropolitan planning organizations, we respectfully submit their ideas and observations for your consideration. Their work is included in full as an attachment to this letter; what follows is a summary of the larger effort.

General Principles

To ensure success of the IIJA across several important policy areas and outcomes, effort should be made to regionalize the funding and provide regions and metropolitan areas with the needed flexibility and authority. Some specific areas we encourage USDOT to consider during implementation:

- **Incentivize regional and metropolitan approaches** – Allowing for and incentivizing regional and metropolitan approaches to IIJA implementation will result in more efficient, equitable, and impactful projects and results. This approach needs to be operationalized in the guidance and program implementation materials to become reality.
- **Increase regional and metropolitan capacity to provide local technical assistance** – MPOs and Regional Councils can play a key role in supporting communities of all sizes in accessing the funding opportunities in the IIJA. A portion of the technical assistance funding to regional partners could help ensure that funds are distributed equitably.
- **Ensure coordination between State DOTs and MPOs** – Much of the funding provided in the IIJA goes to State DOTs and other state entities. To be successful, however, regions and local partners will be key and need to be included in the process. Federal guidance and other implementation documentation should ensure that this coordination occurs to the greatest extent possible.

Group 1: Carbon Reduction Program

This group considered the new Carbon Reduction Program, which is designed to reduce carbon emissions and contains a significant localized component based on the substantial suballocation of funds. This group recommends flexibility for MPOs and Regional Councils within this space and recommends establishing a learning collaborative network.

Group 2: PROTECT ('Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation') Program

This group focused on the new PROTECT program to increase resilience of the nation's transportation system. This includes recommendations regarding the program's formula component, competitive grant programs, and planning component.

Group 3: Planning

This group focused on the planning-related sections of the IIJA and provides recommendations regarding metropolitan planning changes, fiscal constraint provisions, increasing safe and accessible transportation options requirements, the Surface Transportation Block Grant Program (STBGP), Transportation Alternatives Program (TAP, or STBGP set aside), Congestion Mitigation and Air Quality (CMAQ) Program, the new Prioritization Process Pilot Program, the new Transportation Access Pilot Program, and the newly authorized Local and Regional Project Assistance Program.

Group 4: Safety

This group analyzed and provided recommendations regarding the new programs and changes to existing programs related to safety. This includes the Highway Safety Improvement Program (HSIP), increasing safe and accessible transportation options requirements, Railroad Crossing Elimination Program, and Safe Streets and Roads for All Grant Program.

Group 5: Competitive Grant Programs

This group provided recommendations regarding a number of competitive grant programs within the IIJA, including the Charging and Fueling Infrastructure Grant Program, the Reconnecting Communities Pilot Program, the MEGA Program, the Strengthening and Revolutionizing Transportation (SMART) Program, and the Healthy Streets Program.

Attached to this letter is the complete analysis conducted by each of these groups. You will find some specific recommendations for each program and in many cases questions that were raised that help shed light on areas of the law that were less clear or that could use further explanation.

If you have any questions about this effort or would like to discuss these recommendations further, please contact Bill Keyrouze, AMPO Executive Director, at bkeyrouze@ampo.org or Erich Zimmermann, NARC Deputy Executive Director, at erich@narc.org.

Thanks for your attention and we look forward to working with you further to refine these recommendations.

Sincerely,



Leslie Wollack
Executive Director
National Association
of Regional Councils



William Keyrouze
Executive Director
Association of Metropolitan
Planning Organizations

Appendix: Working Group Recommendations

What follows are the questions and recommendations developed by each of the five working groups. To go directly to a specific working groups materials, or to a specific program, click on the appropriate link below.

- [Carbon Reduction Program Working Group](#)
- [PROTECT Program Working Group](#)
- [Planning Working Group](#)
 - [Transportation Planning \(Sec. 11201\)](#)
 - [MPO Transportation Planning \(Sec. 30002\)](#)
 - [Planning Programs \(Sec. 30004\)](#)
 - [Fiscal Constraint On Long-Range Plans \(Sec. 11202\)](#)
 - [Increasing Safe and Accessible Transportation Options \(Sec. 11206\)](#)
 - [Surface Transportation Block Grant Program \(STBGP\) \(Sec. 11109\)](#)
 - [STBGP Set-Aside \(Transportation Alternatives\) \(Sec. 11109\)](#)
 - [Congestion Mitigation and Air Quality \(Sec. 11115\)](#)
 - [Prioritization Process Pilot Program \(Sec. 11204\)](#)
 - [Transportation Access Pilot Program \(Sec. 13010\)](#)
 - [Local and Regional Project Assistance \(RAISE\) \(Sec. 21202\)](#)
- [Safety Working Group](#)
 - [Highway Safety Improvement Program \(Sec. 11111\)](#)
 - [Increasing Safe and Accessible Transportation Options \(Sec. 11206\)](#)
 - [Railroad Crossing Elimination Program \(Sec. 22104\)](#)
 - [Safe Streets and Roads for All Grant Program \(Sec. 24112\)](#)
- [Competitive Programs Working Group](#)
 - [Charging and Fueling Infrastructure Grant Program \(Sec. 11401\)](#)
 - [Reconnected Communities Pilot Program \(Sec. 11509\)](#)
 - [National Infrastructure Project Assistance Program \(MEGA\) \(Sec. 21201\)](#)
 - [Strengthening Mobility and Revolutionizing Transportation \(SMART\) Program \(Sec. 25005\)](#)
 - [Healthy Streets Program \(Sec. 11406\)](#)

Carbon Reduction Program Working Group

Introduction

Transportation is the largest source of greenhouse gas emissions in the United States. Reducing carbon emissions in the transportation sector is a complex issue that requires locally-driven innovation and creative solutions that reach beyond traditional transportation plans and projects. Metropolitan Planning Organizations and Regional Councils of Government (MPOs/RCs) continue to lead the charge to address these issues in our regions and communities, because the choices we make on transportation today will have an impact on our communities for decades. To see true reduction in carbon emissions, the U.S. Department of Transportation (USDOT) should embolden and support regional planning agencies to use innovative strategies to improve our regions.

The following recommendations include input from a variety of small and large MPOs/RCs representing a cross section of regions encompassing both rural and urban areas. The goal of the recommendations is to help encourage and empower regional planning agencies to implement successful carbon reduction strategies with significant, sustained results.

(1) Ensure MPOs and Regional Councils have funding for and are encouraged to develop their own carbon reduction strategies. States are required to develop a carbon reduction strategy in consultation with the MPOs/RCs. USDOT should make clear that MPOs/RCs are also encouraged to develop their own plans and that these plans should be considered for integration into the State plans. This would provide for stronger coordination between states and regions and increase the likelihood that beneficial carbon reduction strategies would be implemented. It also helps ensure that beneficial carbon reduction strategies can be implemented in states where carbon reduction may not be a priority. If need be, USDOT should consider steps to help MPOs/RCs implement successful programs on their own.

(2) Allow MPOs and Regional Councils to use innovative solutions to reduce carbon emissions. MPOs/RCs have a broad range of local issues within their purview. These can include housing, land use, transportation, environment, economic development and disaster preparedness. These broad portfolios present opportunities to address carbon reduction through creative cross-cutting strategies. We encourage USDOT to provide significant flexibility for MPOs/RCs to address carbon reduction through innovative solutions that integrate transportation, land use, housing, environment and equity/environmental justice concerns to reduce emissions.

For innovative solutions to be successful, it is also critically important that division offices implement this added flexibility in a consistent manner across states and with the goals of this Administration. In past programs, there have been instances where different FHWA division offices have interpreted guidance in different ways. This can be challenging for regional bodies and communities, who are seeking to address challenges in new ways. It may also have the unintended consequence of limiting benefits of the program.

Also, many MPOs/RCs have for years adopted plans and strategies to address carbon reduction. Prior to guidance being issued, MPOs/RCs should be allowed to use funds for a

variety of purposes, if they have studies or planning documents including but not limited to metropolitan transportation plans, congestion management plans and others that show the benefits to reducing transportation-sector carbon emissions.

(3) Ensure MPOs and Regional Councils are able to implement their carbon reduction strategies. To ensure significant benefits from this program, USDOT should not allow states to use the flexibility provisions of subsection (c)(2) for suballocated carbon reduction funding that is attributable to an MPO/RC. If the MPO/RC has adopted a carbon reduction strategy, states should only be allowed to obligate Carbon Reduction Program funds in an urbanized area for projects included in or consistent with an MPO's carbon reduction strategy. This will help prevent states from flexing funding out of the Carbon Reduction Program and support the advancement of projects that meet the goals and priorities of this Administration.

(4) Bolster outcomes through project selection. The IIJA does not make clear the link between the carbon reduction strategies and projects to be funded. To ensure that carbon reduction strategies are meaningful, USDOT should make clear that projects that are implemented need to be consistent with the goals and objectives of the carbon reduction strategies. To see meaningful carbon reduction, it is also important to ensure rigor in the project selection process that utilizes a data-driven selection process that emphasizes the direct, measurable impact of a project on the reduction of carbon emissions. Enhanced clarification on measurable, significant carbon reduction impacts will help ensure that carbon reduction program funding is not unnecessarily distilled as to be applicable to any transportation project; there are examples in every state, where projects have advanced with claims of carbon reduction by eliminating congestion and adding capacity for single occupant vehicles. While different projects are appropriate for different regions of the country, USDOT should ensure that projects have actual, sustained carbon reduction benefits as driven by data and industry-standard methodology.

(5) Establish a collaborative learning network. MPOs/RCs have a wide range of experience working on carbon reduction strategies. Some have initiated and implemented wide ranging strategies, others have tackled individual programs and projects, and others may be beginning this process. Understanding the benefits and limitations of various strategies is critical to achieving the most gains from these investments. USDOT should establish a Carbon Reduction learning collaborative to share best practices, ensure projects are getting the best results, support the development of data and tools to quantify carbon reduction benefits from various strategies, ensure consistency in what is considered to be industry-standard methodology, and provide guidance on implementation. This collaborative could also help address the challenge of varying interpretations by FHWA division offices by having a forum to discuss and identify issues.

Working Group Members:

Ron Achelpohl, co-chair	Mid-America Regional Council	MO
James Corless, co-chair	Sacramento Area Council of Governments	CA
Gerry Bogacz	New York Metropolitan Transportation Council	NY
Peter Buchwald	St. Lucie Transportation Planning Organization	FL
Ryan Collins	Capital Area MPO	TX
Jonathan Ehrlich	Metropolitan Council	MN
Tony Fischer	Metropolitan Council	MN
Kevin Gilhooley	Southern California Association of Governments	CA
Katherine Grantham	Southeast Michigan Council of Governments	MI
Kelly Karl	Southeast Michigan Council of Governments	MI
Peter Koeppel	Farmington MPO	NM
Kevin Murphy	Skagit Council of Governments	WA

PROTECT Program Working Group

Background and Purpose

The PROTECT ('Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation') program's purpose is to provide federal funding for resilience improvements through formula funding, competitive planning grants, and competitive resilience improvements grants. This program will enable communities to assess vulnerabilities to current and future weather events and natural disasters, and to plan and implement transportation improvements and emergency response strategies to address those vulnerabilities. This working group divided its focus into three elements of the PROTECT program, as outlined in the Bipartisan Infrastructure Law: formula funding, competitive grants, and planning.

PROTECT Formula Funding

The group respectfully suggests that FHWA and USDOT provide clarity regarding critical and emergency routes, capacity-adding, and eligibility of private operators. Full comments are provided below.

- For states without designated evacuation routes, is there an opportunity to define critical routes or other emergency routes for funding opportunities?
- Construction of new capacity
 - Are additional resilience mitigation strategies required for added capacity projects?
 - Target location of where capacity can be added?
- Eligibility of private operators – specifically referring to port facilities, connecting ports to other modes - Will operators of private rail, port, container on barge, trucking, etc., be eligible as a port facility or connection?

PROTECT Competitive Grants

The group respectfully provides multiple suggestions for application and implementation of PROTECT discretionary grants. It urges the administration to provide priorities for the award of discretionary funds and to consider non-traditional approaches in community resilience. Full comments are provided below.

- Application process
 - Single application within a single modal agency for multiple IIJA programs
 - Preference given to applications that are regionally coordinated
 - Applicants should use comparable metrics (benefit/cost ratio, probability, and magnitude of impacts)
- Planning Grants
 - Can Planning Grants be done by expedited competition? If not, clearly define priorities for award – give preference to grants that would be expected to result in high-priority implementation projects and are of national significance. Perhaps there could be a national scoring rubric based on the susceptibility regions to various climate risks
 - How does the Resilience Plan integrate with Hazard Mitigation Plans prepared for FEMA funding, Comprehensive Economic Development Strategies prepared for EDA funding?

- Potentially give preference planning grant awards for entities or consortiums where the planning will be integrated with HMP and CEDS
- Community Resilience and Evacuation Route Grants
 - Consider nontraditional approaches in community resilience/evacuation routes
 - How is “likely to occur” defined and determined? Changing climate and weather patterns make some events more frequent than would be expected using traditional models. FEMA models may not be adequately up-to-date
- At-Risk Coastal Infrastructure Grants
 - “Otherwise enhancing the resilience” include green infrastructure
 - Sea level rise also has impacts on estuaries and rivers; if there is a nexus between sea level rise on the coast, estuary/river projects should also be eligible
- General
 - 100-year flood definition/determination should be examined closely due to changes in weather patterns including precipitation
- Eligible Activities
 - Emphasize the “such as” before the marsh, as there are many types of interventions (e.g. green infrastructure beyond marshes) that are eligible

PROTECT Planning Section

General Recommendations

- Program guidance should affirm the eligibility of using PROTECT program funds to hire consultants.
- Resilience Improvement Plans should include allowances for sheltering in place:
 - In large metropolitan areas such as Miami and Houston, it’s next to impossible to have a complete or total evacuation in the event of an approaching storm (i.e. persons unwilling, unable, or lacking resources to evacuate).
 - Allowing provisions to improve facilities for sheltering in place covers a multitude of scenarios including events where people may not have had the opportunity or time to prepare/advanced warning- think of Metro Orlando, where a sudden shift in storm trajectory may leave little to no time for evacuations.
 - This flexibility should also include resources for disadvantaged populations or populations with little to no mobility access, as this provides a safe space to shelter in place during an event.
 - These facilities may also facilitate faster recovery efforts such as housing, first responders, etc.
- The Resilience Improvement Plan should not be a requirement for MPOs but should be required for an MPO to be eligible to receive PROTECT funds.
- Potential applications should reference:
 - Broadband implementation (communications, work from home, school from home, etc.) - continuity of operations
 - Continuity of operations plans
 - Inter-state and inter-regional resiliency coordination efforts
- In concert with the appropriate Federal agencies such as FEMA- allow for the updating of 100/500 year floodplains into zoning/risk mitigation flood areas using PROTECT program funding.
 - Allow for urban flooding and other flooding that may not be captured in standard flood maps to be addressed and mitigated through these awards.

- Allow for land-banking for stormwater detention and/or retention.
- Allow funds for agencies to consistently update their resilience data (this should not be a one-hit-wonder):
 - Local agencies should decide how often to update these plans based on changing demographics, unplanned events, etc.
 - Allow for the gathering of all resilience data into a central database for sharing and building new historic trends for planning efforts.
- Allow funding to be used to hire a DOT Resilience Coordinator for each state or MPO Resilience Coordinator (at each MPO):
 - Data housing/maintenance
 - State role- coordinate across the state
 - MPO role- coordinate across the MPO and within multiple MPOs – through a megaregional context
- Encourage/require (or provide additional points) where resiliency will be incorporated into transportation asset management and define resilience as part of ‘state of good repair’ for all infrastructure. This will facilitate the assessment of infrastructure for resilience enhancements through routine maintenance.

Section-specific Comments

- Need clarity on “not more than 40% of funding may be used to expand capacity.”
 - Is this only referencing roadway capacity? Or would this preclude transit or bike/ped improvements to enhance network capacity as well? (pg. 136)
- Amount of Reductions Section- since the language is unclear, ensure reductions will not have an impact on formula funding allocations. (144)
- Funding matches may prove to be a challenge for immediate implementation of projects- allow flexibility or waivers. (145)
- The list of priority projects may not be readily available for most jurisdictions, thereby creating a delay in which the plans are developed before grant applications will be submitted. Allow flexibility. (145)
- Regarding notable progress or minimal demonstration length as a part of grant applications: allow flexibility to dedicate intentions to develop and implement the project in advance of the development of the Resilient Infrastructure Plan. (145)
- Current language does not provide a standard baseline for risk measures, particularly if every applying agency uses their own risk assessment methodology or tool. Provide a baseline standard or allow flexibility- such as a simplified qualitative risk assessment in lieu of methodologies/tools. (145)
- If all applicants are required to use the same risk assessment tool, then the prioritization process of projects could be more accurately compared across the nation. Perhaps require the use of FHWA’s INVEST tool as a consistent baseline of comparison.
- If different methodologies must be used, explanations should be included in applications to discuss the reasons for the differences. (145)
- Require State DOT consultation in the development and/or implementation of PROTECT projects, PROTECT grants, or the development of Resilience Improvement Plans. (145)
- Note that the acronym for the program- Resilience Improvement Plans, comes out as R.I.P. Perhaps a name change. (145)

- Allow MPOs the opportunity to define the planning horizon for Resilience Infrastructure Plans based on their needs, since there is no specific mention of a planning horizon for the development of the Plan. The text does briefly mention long range plans- allow a connection to this based on MPO needs. Ensure “No New Planning Requirements” remains (146).
- Ensure “No New Planning Requirements” remains. (146)

Working Group Members

Craig Raborn, co-chair	Houston-Galveston Area Council	TX
Greg Stuart, co-chair	Broward MPO	FL
David Burns	Metropolitan Council	MN
James Garland	Houston-Galveston Area Council	TX
Allie Isbell	Houston-Galveston Area Council	TX
Taylor Laurent	MetroPlan Orlando	FL
Tim McMahon	Chicago Metropolitan Agency for Planning	IL
Jeff Neal	North Central Texas Council of Governments	TX
Francis Pickering	Western Connecticut Council of Governments	CT
Jad Salloum	Broward MPO	FL
James D. Snell	Tri-County Regional Planning	MI
Levi Stewart-Figueroa	Broward MPO	FL
Mark Wilkes	Coastal Region MPO	GA

Planning Provisions Working Group

Sections Reviewed:

- [Transportation Planning \(Sec. 11201\)](#)
- [MPO Transportation Planning \(Sec. 30002\)](#)
- [Planning Programs \(Sec. 30004\)](#)
- [Fiscal Constraint On Long-Range Plans \(Sec. 11202\)](#)
- [Increasing Safe and Accessible Transportation Options \(Sec. 11206\)](#)
- [Surface Transportation Block Grant Program \(STBGP\) \(Sec. 11109\)](#)
- [STBGP Set-Aside \(Transportation Alternatives\) \(Sec. 11109\)](#)
- [Congestion Mitigation and Air Quality \(Sec. 11115\)](#)
- [Prioritization Process Pilot Program \(Sec. 11204\)](#)
- [Transportation Access Pilot Program \(Sec. 13010\)](#)
- [Local and Regional Project Assistance \(RAISE\) \(Sec. 21202\)](#)

Transportation Planning (Sec. 11201) [highway] and MPO Transportation Planning (Sec. 30002) [transit]

- **Board Designation**

Questions to consider:

- How should areas within the MPO planning area and outside the urbanized area be treated?
- Will this apply to existing MPOs, especially those in high growth areas, who face redistribution of board membership, or does it only apply to new MPOs?
- How should MPOs demonstrate that consideration was given to equitable & proportional representation?
- Will this require the local governments making the appointments to coordinate in some way with the MPO prior to making those appointments? How would that be demonstrated? How could such provisions be enforced against independent governmental entities?
- Is there any consideration given for how to treat majority-minority communities or multi-county MPOs? Is there equitable and proportional representation to the MPO Board as a whole or to each jurisdiction represented on the Board?

- **Housing**

Recommendations to consider:

- Guidance on Housing should include considerable flexibility given metropolitan area diversity and should be permissible, but not prescriptive in examples for documentation, performance metrics, coordinating organizations, plans and planning tools and resources.
 - *Documentation:* examples to demonstrate coordination has taken place; the range of transportation planning documents and types for which

coordination is expected, general content or expectations for the “Housing Coordination Plan”

- *Performance Metrics*: examples of the measures to consider such as total housing units, units by type, owner vs. rental, vacancy, definitions of affordability and could include reference to tools such as the Housing + Transportation Index, housing types in question
- *Coordinating Organizations*: examples of the kind of affordable housing organizations and other interested parties such as regional councils, regional planning commissions, regional housing organizations, and economic development districts. Cross-references to guidance directing federally-funded housing organizations to work with MPOs will also be useful
- *Plans and Planning Tools*: flexibility to include or consider existing regional plans for housing and economic development, such as CEDS, regional housing plans, etc.
- *Resources*: provide clear guidance and flexibility to dedicate resources for data work, planning tools and more for the housing and scenario planning components.

Planning Programs (Sec. 30004) [transit]

- **Federal Share**

Questions to consider:

- Will Census Tracts or Block Groups be used as the geography to determine lower density or income levels? Would it be a percentage relative to the whole urban or rural area?
- What will the reporting standards/requirements be?
- Will ‘commuting’ or ‘essential travel’ be defined?
- How will this apply to states that have a sliding scale match (ex: Arizona)?
- Does adjoining urban / rural area mean an area under different political jurisdiction?

Recommendations to consider:

- The language needs clarity in that urban and rural statements are respective to each other (that a lower density rural area next to an urban area does not qualify for an increased share).
- The higher percentage should apply to all of the urban area, not just a portion of the funding.
- The accountability report should document how the increased funding has benefited not only the entire community but especially the targeted low density/income areas.
- ‘Activity’ should be defined as broadly and as flexible as possible to fit the needs of small and large MPOs.

Fiscal Constraint on Long-Range Plans – (Sec. 11202) [highway]

Questions to consider:

- Need clarification to determine how the BIL significantly changes fiscal constraint. Language states that beyond the first four years of the plan, the financial plan can aggregate cost ranges/cost bands (instead of beyond the first 10 years), **as long as the funding source is reasonably expected to be available to support the projected cost ranges/cost bands**. All the other provisions of CFR 450.324(f)(11) about the financial plan that demonstrates how the adopted transportation plan can be implemented would presumably remain in place.
- Would projects need to be in the first 4 years of the MTP in order to migrate to the TIP? (This may be more of an issue for attainment areas).

Recommendations To Consider:

- Maintain the ability for MPOs to migrate projects from any phase of the MTP to the TIP.
- Guidance should ensure that revenue and cost assumptions are reasonable and meaningful, which may mean that planning level cost estimates for individual capital projects are required.
- Maintain sufficient structure in financial constraint to prevent an MTP from being little more than a wish list, such as requiring planning level cost estimates for individual capital projects.
- Keep intact all other provisions of CFR 450.324(f)(11).

Increasing Safe and Accessible Transportation Options (Sec. 11206) [highway]

Questions to Consider:

- What is the minimum content of a Complete Streets Standard/Policy/Prioritization Plan? (this should help define what the waiver would be).
- Can this waiver be tied to self-certification?
- Is the waiver necessary at all since the creation of these documents/plans/policies may in fact already account for the 2.5% set aside?

Recommendations to Consider:

- We have strong concerns regarding the implementation and timeline of the USC language that indicates that an MPO would need to obtain a waiver to this requirement by “**not later than 30 days before the Secretary apportions funds for a fiscal year under section 104**”. In particular, the process for obtaining a waiver should be clear and relatively straightforward, so as to avoid substantial expenditure of MPO resources to obtain a waiver. If there is a legal way for USDOT to implement a waiver process that would cover multiple years, that would be most desirable.
- Further clarify the waiver process and the contents of the prioritization plan.

- There should be some demonstration that the documents that lead to the waiver have demonstrated outcomes.

Surface Transportation Block Grant Program (Sec. 11109)

Recommendations to consider:

- USDOT should, via guidance or rules, provide state DOTs with clear, direct guidance on how to move these new eligible projects quickly through the project development process. In many cases, DOTs are highly focused on roads and bridges and have less experience making progress on other types of projects.
- "Intelligent transportation technologies" should be defined as broadly and inclusively as possible as technology options will continuously grow and evolve over the life of the legislation and beyond. The definition should not be limited to a few select technologies.
- Projects to enhance travel and tourism should allow for innovative projects, not only transportation-focused assets, such as tourism-focused rail, trolleys, ferries, or multi-use trails.
- Regarding the distribution of STBGP funds to non-TMA MPOs, we strongly encourage the FHWA to accept and approve a methodology developed between the State(s) and relevant non-TMAs that would equitably allocate funds based on each MPO's percentage of the state's total urbanized area population. If a State's DOT chooses not to apply this methodology, they may develop alternative methodologies for equitable allocation. However, such alternative strategies should require additional review by the FHWA and a demonstration that the methodology was developed in consultation with the MPOs.

Transportation Alternatives Program (Sec. 11109)

Recommendations to consider:

- Guidance or rules for this provision should strongly encourage states to take advantage of this provision and should provide clear direction on how this can be best implemented.
- The increase in the amount of TAP set-aside funding to 10 percent and the limit on states' abilities to transfer TAP funds are positive developments, as this creates the potential for more local projects.
- USDOT should conduct a review of existing MPO processes for allocating TAP funds, as many MPOs may already comply with the recommended priorities. These examples could also be used to convey the expectations of USDOT/FHWA.

Congestion Mitigation and Air Quality (Sec. 11115)

- **Time limitation for transit operating assistance**

Recommendations to consider:

- Ensure that in amending CMAQ guidance to incorporate IIJA changes, that arbitrary time limits are removed for transit operating assistance projects in non-urbanized areas and urbanized areas with a population of 200,000 or fewer.
 - Guidance should include that the no time limitation provision includes transit operating assistance projects that were awarded CMAQ funds prior to the enactment of IIJA in non-urbanized areas and urbanized areas with a population of 200,000 or fewer.
 - Time limitations of transit operating assistance should be adjusted for urbanized areas with a population of over 200,000. Under the current CMAQ guidance, transit operators can essentially utilize the third year of CMAQ funding over the third through fifth years of operation. In addition, the total funding over these three years is not to exceed the greater of the first or second years. The purpose of this is to enable the transitioning of more independent system operation. Ideally, the guidance would be more general, allowing that funding should at least be lessening in the outer years. This would allow transit operators to maximize the amount of CMAQ funding it receives should there be cost efficiency realized without having to return any unused funds.
- **Prioritize CMAQ projects, to the extent practicable, that benefits disadvantaged communities or low-income populations living in, or adjacent to, PM2.5 areas.**

Recommendations to consider:

- The term disadvantaged communities should be defined in FHWA's CMAQ guidance.
- Ideally, the term should be defined broadly enough to allow the State and MPOs to document/develop their own definition for identifying the disadvantaged communities represented in the CMAQ-eligible areas.
- Should FHWA desire utilizing a uniform methodology in identifying areas having disadvantaged communities, AMPO/NARC can assist in the development of the methodology. (Can MPOs use or provide an alternative, can we document/develop our own definition, can we assist FHWA/USDOT with the development of their definition?)
- Potential disadvantaged communities could include socio-economic (lower-income populations, people of color); Transportation/Access (lack of transit options, zero-car households, transportation cost-burden); Health (air-quality, walkability, access to safe bicycling).
- The main benefits of CMAQ projects have always been the reduction of emissions from cars and trucks that cause air pollution, which has the effect of reducing air-

pollution-related illnesses. In terms of identifying the benefits of the projects in PM2.5 areas for the subject populations, we recommend that guidance ensures effectiveness and quality of projects in the areas.

- Guidance should define “to the extent practicable” for purposes of prioritizing funding in PM2.5 areas.
- **Assistance to MPOs, upon request, in tracking progress made in minority or low-income populations as part of the CMAQ performance plan (required for TMAs having a population over 1 million).**

Recommendations to consider:

- While tracking progress is voluntary, MPOs desiring to do so should be able to request assistance from USDOT.
- Clarification should be given as to whether the tracking of progress applies in general to all projects or only to those located inside PM2.5 areas (aligning with the new requirement to prioritize CMAQ funding in PM2.5 areas that benefit disadvantaged communities and low-income populations).
- Regardless of whether requested by any MPO, FHWA should identify and share best practices of how progress can be measured.

Prioritization Process Pilot Program (Sec. 11204)

Questions to Consider:

- What is the benefit to an MPO or DOT to participate?
- Clarification is needed for MPOs < 200K. Are they not eligible and only the state can submit an application within their areas?
- If an MPO/DOT chooses to pursue this program, are they then obligated to only select higher scoring projects in the MTP/TIP except under unusual / mitigating circumstances? What flexibility does an MPO/DOT have to modify the criteria later?

Recommendations to Consider:

- Should the program be tied to efforts to achieve MAP-21 performance targets adopted or supported by an MPO/DOT? (could also consider complete street development, equity, and air quality / greenhouse gas reduction).
- Alternatively, factors could be left alone to give MPOs/DOTs maximum flexibility to prioritize what they determine to be most important

Transportation Access Pilot Program (Sec. 13010)

- **Methodology**

Recommendations to consider:

- This concept may be new to many applicants, and they may benefit from some type of example methodology/best practices/etc.
- Establish a way for participants to share experiences, data, methodologies, etc. through the pilot program

- **Data**

Recommendations to consider:

- Encourage a data coordination and collaboration study looking at Access to Opportunities-related data coordination between transportation agencies and local/state partners. There are great models out there that could be replicated with proper policy, incentives, and facilitation. Any such ATO data coordination study should include state DOTs, MPOs, major transit agencies, and state GIS coordination offices.
- Data should be comparable across participants. When thinking nationally about how to implement ATO, it is important to facilitate the assembly of a foundational set of GIS-based transportation system data, including:
 - Accurate, current, and granular, employment data
 - Residential household and housing unit characteristics and intensities
 - A regionally relevant set of key destinations and amenities, including at minimum schools/campuses, health care facilities, major transit stations/hubs, grocery stores, and community and cultural centers
 - A current road centerline layer with congested and free flow roadway travel speeds (current and forecasted from travel demand models), and derived routable network for calculating shortest path and travelsheds
 - The use of the General Transit Feed Specification (GTFS) transit route timetable data standard for system route frequency, vehicle speed, and transfer times/locations
 - An inventory of bicycle and pedestrian facilities and their characteristics and a derived routable network for calculating shortest paths and travelsheds
 - Open-source sharing of ATO-related programming code for both analysis and visualization webmaps

- **Performance Measures**

Recommendations to consider:

- Consider future legislation to integrate transportation access into Federal performance measures and as a Federal requirement for the development of MTPs and TIPs.

Local and Regional Project Assistance [RAISE] (Sec. 21202)

- **Definition of Disadvantaged Areas**

Recommendations to consider:

- As USDOT refines the definition of a “historically disadvantaged area”, we would recommend a specific NPRM or other appropriate outreach process wherein entities (including MPOs) with already developed and refined processes to identify such disadvantaged communities could work with USDOT to refine their definition of these areas. MPOs have observed that the current definition developed for the FFY2022 RAISE NOFO doesn’t always correctly identify the communities with the highest degree of need or historical disadvantage.

Working Group Members:

Andrew Gruber, co-chair	Wasatch Front Regional Council	UT
Kevin Muhs, co-chair	Southeastern Wisconsin Regional Planning Commission	WI
David Behrend	North Jersey Transportation Planning Authority	NJ
Teri Dixon	Chicago Metropolitan Agency for Planning	IL
Daniel Doenges	Regional Transportation Commission of Washoe County	NV
Christopher Evilia	Lexington Area MPO	KY
Jackson C. Fox	FAST Planning (Fairbanks MPO)	AK
Peter Gies	Broward MPO	FL
Corey Hull	Southern Georgia Regional Commission	GA
Gary Huttman	MetroPlan Orlando	FL
Ashby Johnson	Capital Area MPO	TX
Rea Donna Jones	Texarkana MPO	TX
Becky Karasko	North Front Range MPO	CO
Jeff "Miles" Meilbeck	MetroPlan Greater Flagstaff	AZ
William Murdock	Mid-Ohio Regional Planning Commission	OH
Craig Raborn	Houston-Galveston Area Council	TX
Doug Rex	Denver Regional Council of Governments	CO
Kevin Vettraino	Southeast Michigan Council of Governments	MI
David Wessel	MetroPlan Greater Flagstaff	AZ

Safety Working Group

Sections reviewed:

- [Highway Safety Improvement Program \(Sec. 11111\)](#)
- [Increasing Safe and Accessible Transportation Options \(Sec. 11206\)](#)
- [Railroad Crossing Elimination Program \(Sec. 22104\)](#)
- [Safe Streets and Roads for All Grant Program \(Sec. 24112\)](#)

Introduction

The summarized recommendations and comments below were developed with the primary objective to provide US DOT actionable items for consideration while developing implementation guidance and rulemaking for the IIJA. Detailed comments and notes from the Safety Working Group may be found in the appendix.

Highway Safety Improvement Program (Sec. 11111)

The Safety Working Group recommends the implementation and guidance for Section 11111 include examples and specifics on eligible items and ensuring the rules are not too prescriptive on improvement types. Additional recommendations:

- Guidance on installation and construction to calm traffic and reduce vehicle speeds should include options to implement the safety improvement even if the study recommends higher speeds.
- The implementation of separated bicycle and pedestrian facilities guidance should provide maximum flexibility to the implementing agency with both vertical and horizontal improvement options.
- The public information campaigns will be greatly beneficial to the MPOs and Regional Councils to address the behavioral component of safety planning, but the guidance language either needs to include specifics on eligible activities and / or provide maximum flexibility to address the characteristics impacting individual communities.
- Vulnerable road user safety assessment comments:
 - Need more guidance on the required components of the assessment and if countermeasures will be evaluated on the same benefit cost analysis required for the HSIP funds.
 - Recommend that MPOs perform the vulnerable road user assessment. The current language indicates that the vulnerable road user assessment is a State responsibility for reporting, but most of the assessments for bicycle and pedestrian safety are done on metropolitan area geography. The MPOs have more context and knowledge of local priorities. MPOs may also provide guidance on the roles and responsibilities for the selection and prioritization, which will improve the project delivery of vulnerable roadway user countermeasures.
 - Assist States and MPOs in improving safety for vulnerable roadway users by providing data and additional resources for data collection. This would greatly improve the planning and implementation improvement.

Increasing Safe and Accessible Transportation Options (Sec. 11206)

The Safety Working Group recommends the implementation and guidance for Section 11206 include more information on the assessment and reporting of activities.

- It is recommended that consideration of the presence of one or more of the activities outlined in the Unified Planning Work Program (UPWP) can serve to meet the 2.5% funding requirement. The Safety Working Group believes that most or all MPOs currently exceed the 2.5% requirement
- The Safety Working Group is looking for more guidance on reporting activities and the 100% federal share provision in the UPWP
- MPOs will require additional guidance on implementation of section 11206 for Megaregional planning and Land Use Policy Planning items as identified in the section. It is strongly recommended that MPOs participate in land use policy planning to improve access to essential services and destinations defined in section 11206.

Railroad Crossing Elimination Program (Sec. 22104)

The Safety Working Group is looking for more guidance regarding the responsible agency for the rail crossing elimination program. The section does not define if the planning needs to be carried out by the State or the MPOs nor through which product(s). Will MPOs need to identify this activity in the UPWP, the LRTP / MTP, or both? Or would this activity be identified in a new/separate product?

Safe Streets and Roads for All Grant Program (Sec. 24112)

The Safety Working Group is interested in the minimum and maximum award amounts for a grant as defined in this program. Additionally, the Safety Working Group recommends including a broad spectrum of eligible project options or project types, in addition to providing examples of low-cost, high-impact strategies. Defining “low-cost” in the legislation is also recommended. The Safety Working Group also recommends that “low-cost” should be excluded as an evaluation criteria when addressing safe streets in Environmental Justice (EJ) or historically disadvantaged communities.

Working Group Members:

Sara Fields, co-Chair	Ozarks Transportation Organization	MO
Nick Lepp, co-Chair	MetroPlan Orlando	FL
Jenya Abramovich	Southeast Michigan Council of Governments	MI
Bill Austin	Morgantown Monongalia MPO	WV
Jasmine Blais	MetroPlan Orlando	FL
Alex Bourgeau	Southeast Michigan Council of Governments	MI
Charles Bradsky	Northwest Indiana Regional Planning Commission	IN
Thomas Dow	Northwest Indiana Regional Planning Commission	IN
Benjamin Restrepo	Broward MPO	FL
Karen Schneiders	Thrive West Central	IN
Matt Stoll	Community Planning Association of Southwest Idaho	ID
Chuck Wemple	Houston-Galveston Area Council	TX

Safety Working Group Notes and Comments:

<p>SEC. 11111. HIGHWAY SAFETY IMPROVEMENT PROGRAM. (a) IN GENERAL.—Section 148 of title 23, United States Code, is amended— (1) in subsection (a)— (A) in paragraph (4)(B)— (i) in clause (i), by inserting “that provides for the safety of all road users, as appropriate, including a multimodal roundabout” after “improvement”; (ii) in clause (vi), by inserting “or a grade separation project” after “devices”; (iii) by striking clause (viii) and inserting the following: “(viii) Construction or installation of features, measures, and road designs to calm traffic and reduce vehicle speeds.”; (iv) by striking clause (xxvi) and inserting the following: “(xxvi) Installation or upgrades of traffic control devices for pedestrians and bicyclists, including pedestrian hybrid beacons and the addition of bicycle movement phases to traffic signals.”; and (v) by striking clauses (xxvii) and (xxviii) and inserting the following: “(xxvii) Roadway improvements that provide separation between pedestrians and motor vehicles or between bicyclists and motor vehicles, including medians, pedestrian crossing islands, protected bike lanes, and protected intersection features. “(xxviii) A pedestrian security feature designed to slow or stop a motor vehicle. “(xxix) A physical infrastructure safety project not described in clauses (i) through (xxviii).”; (B) by redesignating paragraphs (9) through (12) as paragraphs (10), (12), (13), and (14), respectively; (C) by inserting after paragraph (8) the following: “(9) SAFE SYSTEM APPROACH.—The term ‘safe system approach’ means a roadway design— “(A) that emphasizes minimizing the risk of injury or fatality to road users; and “(B) that— “(i) takes into consideration the possibility and likelihood of human error; “(ii) accommodates human injury tolerance by taking into consideration likely accident types, resulting impact forces, and the ability of the human body to withstand impact forces; and “(iii) takes into consideration vulnerable road users.”; (D) by inserting after paragraph (10) (as so redesignated) the following: “(11) SPECIFIED SAFETY PROJECT.— “(A) IN GENERAL.—The term ‘specified safety project’ means a project carried out for the purpose of safety under any other section of this title that is consistent with the State strategic highway safety plan.</p>	<p>List of Systemic Projects for the HSIP</p> <p>Request the inclusion of examples in the final guidance.</p> <p>Concerns over the community having to accept outcomes, if the study recommends a higher speed... please include examples for ways to reduce speed if speed study recommends higher...would vision zero and safe systems address this in the rule making? Refer to federal highway safe systems.</p> <p>Allow both (and / or) horizontal and vertical separation? And or, difference between urban needs and rural needs. More context sensitive guidance for urban and rural and speeds? ... really careful not to create rule making that is overly restrictive, maximum flexibility</p> <p>More clarification on more of the public information campaigns ...guidance on what is eligible</p>
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<p>“(B) INCLUSION.—The term ‘specified safety project’ includes a project that—</p> <p>“(i) promotes public awareness and informs the public regarding highway safety matters (including safety for motorcyclists, bicyclists, pedestrians, individuals with disabilities, and other road users);</p> <p>“(ii) facilitates enforcement of traffic safety laws;</p> <p>“(iii) provides infrastructure and infrastructure related equipment to support emergency services;</p> <p>“(iv) conducts safety-related research to evaluate experimental safety countermeasures or equipment; or</p> <p>“(v) supports safe routes to school noninfrastructure-related activities described in section 208(g)(2).”;</p> <p>(E) in paragraph (13) (as so redesignated)—</p> <p>(i) by redesignating subparagraphs (G), (H), and (I) as subparagraphs (H), (I), and (J), respectively; and</p> <p>(ii) by inserting after subparagraph (F) the following;</p> <p>“(G) includes a vulnerable road user safety assessment.”; and</p> <p>(F) by adding at the end the following:</p> <p>“(15) VULNERABLE ROAD USER.—The term ‘vulnerable road user’ means a nonmotorist—</p> <p>“(A) with a fatality analysis reporting system person attribute code that is included in the definition of the term ‘number of non-motorized fatalities’ in section 490.205 of title 23, Code of Federal Regulations (or successor regulations); or</p> <p>“(B) described in the term ‘number of non-motorized serious injuries’ in that section.</p> <p>“(16) VULNERABLE ROAD USER SAFETY ASSESSMENT.—The term ‘vulnerable road user safety assessment’ means an assessment of the safety performance of the State with respect to vulnerable road users and the plan of the State to improve the safety of vulnerable road users as described in subsection (I).”;</p> <p>(2) in subsection (c)—</p> <p>(A) in paragraph (1)(A), by striking “subsections (a)(11)” and inserting “subsections (a)(13)”;</p> <p>(B) in paragraph (2)—</p> <p>(i) in subparagraph (A)(vi), by inserting “and to differentiate the safety data for vulnerable road users, including bicyclists, motorcyclists, and pedestrians, from other road users” after “crashes”;</p> <p>(ii) in subparagraph (B)(i), by striking “(including motorcyclists), bicyclists, pedestrians,” and inserting “, vulnerable road users (including motorcyclists, bicyclists, pedestrians),”;</p> <p>(iii) in subparagraph (D)—</p> <p>(I) in clause (iv), by striking “and” at the end;</p> <p>(II) in clause (v), by striking the semicolon at the end and inserting “; and”;</p> <p>(III) by adding at the end the following:</p> <p>“(vi) improves the ability of the State to differentiate the fatalities and serious injuries of vulnerable road users, including bicyclists, motorcyclists, and pedestrians, from other road users.”;</p>	<p>Request clarification on if general education is eligible or must only provide education on local or state safety laws. Would like to provide general safety tips as an eligible activity.</p> <p>Need more guidance as to what's needed in the safety assessment, does this require the same BCA as the HSIP</p> <p>Similar to PM1 and bill just has states responsibility to report, but what do the MPOs need for data collection to accommodate? Do MPOs have to wait for the State to complete their plan or will an MPO plan check the box for funding?</p> <p>Urban freight, is there work to understand the increased neighborhood traffic activity because of E-commerce?</p>
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<p>(3) in subsection (d)(2)(B)(i), by striking “subsection (a)(11)” and inserting “subsection (a)(13)”;</p> <p>(4) in subsection (e), by adding at the end the following: “(3) FLEXIBLE FUNDING FOR SPECIFIED SAFETY PROJECTS.— “(A) IN GENERAL.—To advance the implementation of a State strategic highway safety plan, a State may use not more than 10 percent of the amounts apportioned to the State under section 104(b)(3) for a fiscal year to carry out specified safety projects. “(B) RULE OF CONSTRUCTION.—Nothing in this paragraph requires a State to revise any State process, plan, or program in effect on the date of enactment of this paragraph. “(C) EFFECT OF PARAGRAPH.— “(i) REQUIREMENTS.—A project carried out under this paragraph shall be subject to all requirements under this section that apply to a highway safety improvement project. “(ii) OTHER APPORTIONED PROGRAMS.—Nothing in this paragraph prohibits the use of funds made available under other provisions of this title for a specified safety project that is a noninfrastructure project.”;</p> <p>(5) in subsection (g), by adding at the end the following: “(3) VULNERABLE ROAD USER SAFETY.—If the total annual fatalities of vulnerable road users in a State represents not less than 15 percent of the total annual crash fatalities in the State, that State shall be required to obligate not less than 15 percent of the amounts apportioned to the State under section 104(b)(3) for the following fiscal year for highway safety improvement projects to address the safety of vulnerable road users.”; and</p> <p>(6) by adding at the end the following: “(I) VULNERABLE ROAD USER SAFETY ASSESSMENT.— “(1) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection, each State shall complete a vulnerable road user safety assessment. “(2) CONTENTS.—A vulnerable road user safety assessment under paragraph (1) shall include— “(A) a quantitative analysis of vulnerable road user fatalities and serious injuries that— “(i) includes data such as location, roadway functional classification, design speed, speed limit, and time of day; “(ii) considers the demographics of the locations of fatalities and serious injuries, including race, ethnicity, income, and age; and “(iii) based on the data, identifies areas as ‘highrisk’ to vulnerable road users; and “(B) a program of projects or strategies to reduce safety risks to vulnerable road users in areas identified as highrisk under subparagraph (A)(iii). “(3) USE OF DATA.—In carrying out a vulnerable road user safety assessment under paragraph (1), a State shall use data from the most recent 5-year period for which data is available.</p>	<p>10% of the state's apportionment of HSIP funds must be spent on Vulnerable roadway users, guidance needs to be given so MPOs can participate, HSIP funds fall outside the LRTP/MTP timeframe and projects are usually 1st or 2nd year of the TIP, how do we show planning consistency?</p> <p>This opens the door for the education component of safety but need more guidance on eligibility.</p> <p>The rule making should include metropolitan areas as the assessment, since dangerous by design and many other safety assessments are done by metro area not the entire state.</p> <p>Should start now. This would be a big ask for an MPO to complete in 2 years with the data required (speed and time of day). How can USDOT support the states and MPOs with big data purchases for this effort.</p>
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<p>“(4) REQUIREMENTS.—In carrying out a vulnerable road user safety assessment under paragraph (1), a State shall—</p> <p>“(A) take into consideration a safe system approach; and</p> <p>“(B) consult with local governments, metropolitan planning organizations, and regional transportation planning organizations that represent a high-risk area identified under paragraph (2)(A)(iii).</p> <p>“(5) UPDATE.—A State shall update the vulnerable road user safety assessment of the State in accordance with the updates required to the State strategic highway safety plan under subsection (d).</p> <p>“(6) REQUIREMENT FOR TRANSPORTATION SYSTEM ACCESS.—The program of projects developed under paragraph (2)(B) may not degrade transportation system access for vulnerable road users.</p> <p>“(7) GUIDANCE.—</p> <p>“(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall develop guidance for States to carry out this subsection.</p> <p>“(B) CONSULTATION.—In developing the guidance under this paragraph, the Secretary shall consult with the States and relevant safety stakeholders.”.</p> <p>(b) HIGH-RISK RURAL ROADS.—</p> <p>(1) STUDY.—Not later than 2 years after the date of enactment of this Act, the Secretary shall update the study under section 1112(b)(1) of MAP–21 (23 U.S.C. 148 note; Public Law 112–141).</p> <p>(2) PUBLICATION OF REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall publish on the website of the Department of Transportation an update to the report described in section 1112(b)(2) of MAP–21 (23 U.S.C. 148 note; Public Law 112–141).</p> <p>(3) BEST PRACTICES MANUAL.—Not later than 180 days after the date on which the report is published under paragraph (2), the Secretary shall update the best practices manual described in section 1112(b)(3) of MAP–21 (23 U.S.C. 148 note; Public Law 112–141).</p>	<p>This should already be happening, who should be leading the conversation and what outcomes is this section looking for?</p> <hr/> <p>Program of projects... back to other comment, how do we achieve planning consistency, do we need to have a 1-5 year list of priorities now for HSIP and Vulnerable users?</p> <hr/> <p>Would like to promote consultation in all areas, not just high-risk areas. Would also like to request a clarification of what is considered consultation.</p> <hr/> <p>We are having trouble with the language “consult” in Florida and defining who is the primary and who makes final determination. This area could be looked at so MPOs should be identifying priorities, even if the state is carrying them out.</p>
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SEC. 11206. INCREASING SAFE AND ACCESSIBLE TRANSPORTATION OPTIONS.

(a) DEFINITION OF COMPLETE STREETS STANDARDS OR POLICIES.—

In this section, the term “Complete Streets standards or policies” means standards or policies that ensure the safe and adequate accommodation of all users of the transportation system, including pedestrians, bicyclists, public transportation users, children, older individuals, individuals with disabilities, motorists, and freight vehicles.

(b) FUNDING REQUIREMENT.—Notwithstanding any other provision of law, each State and metropolitan planning organization shall use to carry out 1 or more activities described in subsection (c)—

- (1) in the case of a State, not less than 2.5 percent of the amounts made available to the State to carry out section 505 of title 23, United States Code; and
- (2) in the case of a metropolitan planning organization, not less than 2.5 percent of the amounts made available to the metropolitan planning organization under section 104(d) of title 23, United States Code.

(c) ACTIVITIES DESCRIBED.—An activity referred to in subsection (b) is an activity to increase safe and accessible options for multiple travel modes for people of all ages and abilities, which, if permissible under applicable State and local laws, may include—

- (1) adoption of Complete Streets standards or policies;
- (2) development of a Complete Streets prioritization plan that identifies a specific list of Complete Streets projects to improve the safety, mobility, or accessibility of a street;
- (3) development of transportation plans—
 - (A) to create a network of active transportation facilities, including sidewalks, bikeways, or pedestrian and bicycle trails, to connect neighborhoods with destinations such as workplaces, schools, residences, businesses, recreation areas, healthcare and child care services, or other community activity centers;
 - (B) to integrate active transportation facilities with public transportation service or improve access to public transportation;
 - (C) to create multiuse active transportation infrastructure facilities, including bikeways or pedestrian and bicycle trails, that make connections within or between communities;
 - (D) to increase public transportation ridership; and
 - (E) to improve the safety of bicyclists and pedestrians;
- (4) regional and megaregional planning to address travel demand and capacity constraints through alternatives to new highway capacity, including through intercity passenger rail; and
- (5) development of transportation plans and policies that support transit-oriented development.

(d) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this section shall be 80

Would like clarification of how this will be implemented.

Would like to request consideration that the presence of one of the activities outlined in the annual UPWP serve to meet the 2.5% requirement. We believe that every MPO far exceeds 2.5% of funding for these activities.

For example, this threshold will be considered to be met if the UPWP identifies a Sidewalk Investment Plan.

[NL add] agree, even with a \$2,000,000 budget, we are probably all spending more than \$20k on complete streets activities.

Is this restricting budget if they are already have or do get credit, and do you have to demonstrate that in the UPWP?

This crosses over into the modeling and proximity after this safety section, but believe it is good to highlight.

<p>percent, unless the Secretary determines that the interests of the Federal-aid highway program would be best served by decreasing or eliminating the non-Federal share.</p> <p>(e) STATE FLEXIBILITY.—A State or metropolitan planning organization, with the approval of the Secretary, may opt out of the requirements of this section if the State or metropolitan planning organization demonstrates to the Secretary, by not later than 30 days before the Secretary apportions funds for a fiscal year under section 104, that the State or metropolitan planning organization—</p> <p>(1) has Complete Streets standards and policies in place; and</p> <p>(2) has developed an up-to-date Complete Streets prioritization plan as described in subsection (c)(2).</p>	<p>Need more guidance on how this specifically will be incorporated into complete streets since the context sensitive nature of a complete street is more localized not regional and megaregional</p> <p>Another reference to land use policies that are usually outside the MPOs preview, just like affordable housing, How do MPOs participate and stay in their lane?</p> <p>Always good to have 100% federal share, but this could be problematic for UPWP development and tracking of federal share.</p>
<p>SEC. 22104. RAILROAD CROSSING ELIMINATION PROGRAM.</p> <p>(a) IN GENERAL.—There is authorized to be appropriated to the Secretary for grants under section 22909 of title 49, United States Code, as added by section 22305, \$500,000,000 for each of fiscal years 2022 through 2026.</p> <p>(b) PLANNING PROJECTS.—Not less than 3 percent of the amount appropriated in each fiscal year pursuant to subsection (a) year shall be used for planning projects described in section 22909(d)(6) of title 49, United States Code.</p> <p>(c) HIGHWAY-RAIL GRADE CROSSING SAFETY INFORMATION AND EDUCATION PROGRAM.—Of the amount appropriated under subsection (a) in each fiscal year, 0.25 percent shall be used for contracts or grants to carry out a highway-rail grade crossing safety information and education program—</p> <p>(1) to help prevent and reduce pedestrian, motor vehicle, and other accidents, incidents, injuries, and fatalities; and</p> <p>(2) to improve awareness along railroad rights-of-way and at highway-rail grade crossings.</p> <p>(d) OVERSIGHT.—The Secretary may withhold up to 2 percent from the amount appropriated for each fiscal year pursuant to subsection (a) for the costs of project management oversight of grants authorized under title 49, United States Code.</p>	<p>MPO Planning or just state? Do we need to identify amounts in UPWP?</p>
<p>SEC. 24112. SAFE STREETS AND ROADS FOR ALL GRANT PROGRAM.</p> <p>(a) DEFINITIONS.—In this section:</p> <p>(1) COMPREHENSIVE SAFETY ACTION PLAN.—The term “comprehensive safety action plan” means a plan aimed at preventing transportation-related fatalities and serious injuries in a locality, commonly referred to as a “Vision Zero” or “Toward Zero Deaths” plan, that may include—</p> <p>(A) a goal and timeline for eliminating fatalities and serious injuries;</p>	<p>Request more information as to minimum and maximum grant award.</p>

(B) an analysis of the location and severity of vehicle involved crashes in a locality;

(C) an analysis of community input, gathered through public outreach and education;

(D) a data-driven approach to identify projects or strategies to prevent fatalities and serious injuries in a locality, such as those involving—

- (i) education and community outreach;
- (ii) effective methods to enforce traffic laws and regulations;
- (iii) new vehicle or other transportation-related technologies; and
- (iv) roadway planning and design; and

(E) mechanisms for evaluating the outcomes and effectiveness of the comprehensive safety action plan, including the means by which that effectiveness will be reported to residents in a locality.

(2) ELIGIBLE ENTITY.—The term “eligible entity” means—

- (A) a metropolitan planning organization;
- (B) a political subdivision of a State;
- (C) a federally recognized Tribal government; and
- (D) a multijurisdictional group of entities described in any of subparagraphs (A) through (C).

(3) ELIGIBLE PROJECT.—The term “eligible project” means a project—

- (A) to develop a comprehensive safety action plan;
- (B) to conduct planning, design, and development activities for projects and strategies identified in a comprehensive safety action plan; or
- (C) to carry out projects and strategies identified in a comprehensive safety action plan.

(4) PROGRAM.—The term “program” means the Safe Streets and Roads for All program established under subsection (b).

(b) ESTABLISHMENT.—The Secretary shall establish and carry out a program, to be known as the Safe Streets and Roads for All program, that supports local initiatives to prevent death and serious injury on roads and streets, commonly referred to as “Vision Zero” or “Toward Zero Deaths” initiatives.

(c) GRANTS.—

(1) IN GENERAL.—In carrying out the program, the Secretary may make grants to eligible entities, on a competitive basis, in accordance with this section.

(2) LIMITATIONS.—

(A) IN GENERAL.—Not more than 15 percent of the funds made available to carry out the program for a fiscal year may be awarded to eligible projects in a single State during that fiscal year.

(B) PLANNING GRANTS.—Of the total amount made available to carry out the program for each fiscal year, not less than 40 percent shall be awarded to eligible projects described in subsection (a)(3)(A).

(d) SELECTION OF ELIGIBLE PROJECTS.—

(1) SOLICITATION.—Not later than 180 days after the date on which amounts are made available to provide grants

under the program for a fiscal year, the Secretary shall solicit from eligible entities grant applications for eligible projects in accordance with this section.

(2) APPLICATIONS.—

(A) IN GENERAL.—To be eligible to receive a grant under the program, an eligible entity shall submit to the Secretary an application in such form and containing such information as the Secretary considers to be appropriate.

(B) REQUIREMENT.—An application for a grant under this paragraph shall include mechanisms for evaluating the success of applicable eligible projects and strategies.

(3) CONSIDERATIONS.—In awarding a grant under the program, the Secretary shall take into consideration the extent to which an eligible entity, and each eligible project proposed to be carried out by the eligible entity, as applicable—

(A) is likely to significantly reduce or eliminate transportation-related fatalities and serious injuries involving various road users, including pedestrians, bicyclists, public transportation users, motorists, and commercial operators, within the timeframe proposed by the eligible entity;

(B) demonstrates engagement with a variety of public and private stakeholders;

(C) seeks to adopt innovative technologies or strategies to promote safety;

(D) employs low-cost, high-impact strategies that can improve safety over a wider geographical area;

(E) ensures, or will ensure, equitable investment in the safety needs of underserved communities in preventing transportation-related fatalities and injuries;

(F) includes evidence-based projects or strategies; and

(G) achieves such other conditions as the Secretary considers to be necessary.

(4) TRANSPARENCY.—

(A) IN GENERAL.—The Secretary shall evaluate, through a methodology that is discernible and transparent to the public, the means by, and extent to, which each application under the program addresses any applicable merit criteria established by the Secretary.

(B) PUBLICATION.—The methodology under subparagraph (A) shall be published by the Secretary as part of the notice of funding opportunity under the program.

(e) FEDERAL SHARE.—The Federal share of the cost of an eligible project carried out using a grant provided under the program shall not exceed 80 percent.

(f) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$200,000,000 for each of fiscal years 2022 through 2026, to remain available for a period of 3 fiscal years following the fiscal year for which the amounts are appropriated.

This area should look at more high impact strategies (not low cost) especially for EJ areas

Low cost should include a list with a broad spectrum of options. Also need further clarification of what “low cost” means. It could be considered low cost for area, a percentage of budget, under a certain dollar amount. Would a systemic improvement be considered low cost? Concerned that “low cost” should not be the only factor especially in EJ areas.

(2) ADMINISTRATIVE EXPENSES.—Of the amounts made available to carry out the program for a fiscal year, the Secretary may retain not more than 2 percent for the administrative expenses of the program.

(3) AVAILABILITY TO ELIGIBLE ENTITIES.—Amounts made available under a grant under the program shall remain available for use by the applicable eligible entity until the date that is 5 years after the date on which the grant is provided.

(g) DATA SUBMISSION.—

(1) IN GENERAL.—As a condition of receiving a grant under this program, an eligible entity shall submit to the Secretary, on a regular basis as established by the Secretary, data, information, or analyses collected or conducted in accordance with subsection (d)(3).

(2) FORM.—The data, information, and analyses under paragraph (1) shall be submitted in such form such manner as may be prescribed by the Secretary.

(h) REPORTS.—Not later than 120 days after the end of the period of performance for a grant under the program, the eligible entity shall submit to the Secretary a report that describes—

(1) the costs of each eligible project carried out using the grant;

(2) the outcomes and benefits that each such eligible project has generated, as—

(A) identified in the grant application of the eligible entity; and

(B) measured by data, to the maximum extent practicable; and

(3) the lessons learned and any recommendations relating to future projects or strategies to prevent death and serious injury on roads and streets.

(i) BEST PRACTICES.—Based on the information submitted by eligible entities under subsection (g), the Secretary shall—

(1) periodically post on a publicly available website best practices and lessons learned for preventing transportation related fatalities and serious injuries pursuant to strategies or interventions implemented under the program; and

(2) evaluate and incorporate, as appropriate, the effectiveness of strategies and interventions implemented under the program for the purpose of enriching revisions to the document entitled “Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices, Ninth Edition” and numbered DOT HS 812 478 (or any successor document).

Competitive Programs Working Group

Sections Reviewed:

- [Charging and Fueling Infrastructure Grant Program \(Sec. 11401\)](#)
- [Reconnection Communities Pilot Program \(Sec. 11509\)](#)
- [National Infrastructure Project Assistance Program \(MEGA\) \(Sec. 21201\)](#)
- [Strengthening Mobility and Revolutionizing Transportation \(SMART\) Program \(Sec. 25005\)](#)
- [Healthy Streets Program \(Sec. 11406\)](#)

Overall Theme: Capacity Concerns

Regions and local governments, especially smaller rural communities, are overwhelmed by the size and scale of competitive programs in IIJA. We strongly encourage USDOT to tap its local FHWA staff for more interactive technical assistance with potential applicants as programs roll out. We also encourage USDOT to release additional guidance to state DOTs encouraging regional coordination of these funds where possible and to provide a local match to communities that do not have the capacity to do so on their own.

In recent years, many state DOTs appear to lack the capacity to handle all of the funding opportunities coming out of the federal government, and some no longer want to be the fiscal agent for discretionary grants due to capacity issues. Many MPOs are happy to step into this role but are already constrained with funding availability and the inability to find a local match. Once again, we strongly encourage USDOT to issue clear guidance, with increased FHWA division staff support, that encourages states to provide more financial resources locally and encourage regional coordination through the MPO process.

Charging and Fueling Infrastructure Grant Program

More guidance is needed from FHWA on how this program will support the formula funding to states. Is the intent of this program to fill local and regional gaps within a state's EV plan. MPOs should be provided with additional technical assistance throughout the NOFO process if the intent is great regional coordination of this charging infrastructure, especially as it relates to partnering with a private provider. Assistance from the Build America Bureau would be welcomed on this front.

The bill text mentions the redesignation of alternative fuel corridors for eligibility, which has not been started at the state, regional, or local levels. There is nothing that recommends a state consult with regional or local officials on redesignation so more guidance will be needed from the federal government on how that process should occur.

Multi-unit dwellings and other residential installation should be eligible for funding or some sort of criteria that incorporates accessibility and density. Equitable distribution of charging infrastructure and a plan for that distribution should be included in the NOFO and review process.

Reconnecting Communities Pilot Program

There was concern that this program may have an unintended negative impact on the local or regional planning process if a project is not selected after the required Community Advisory Board was established and community engagement had already taken place. More specific guidance should be included in the NOFO regarding what community engagement is required during the application process. We recommend the application just show the applicant's ability, capacity, or track-record of community engagement for a Community Advisory Board versus the need to establish a Board for application submittal.

Since this is a new program targeting communities that have been historically disconnected, USDOT should ensure local federal representatives (local FHWA division staff) are providing assistance to ensure projects are on the right track, especially for communities that have limited capacity. We are also encouraged to see more flexibility allowing any "federal assistance" (such as STBG funding) to be used to increase the federal share up to 80% on capital construction projects. Regions encourage more of this flexibility, especially for projects this large that are regionally significant. To allow for more of an interactive and regional process we encourage USDOT to look at EDA's Build Back Better Challenge. Having local EDA staff work with applicants throughout the process was invaluable and this process also encouraged regions to pick one or two projects instead of competing with one another.

National Infrastructure Project Assistance Program (Megaprojects)

Similar to the Reconnecting Communities pilot, the scale of the program may be overwhelming for regions and local governments that do not have the capacity for a local match. We are encouraged to see the multimodal nature of this program but are wondering how the criteria chosen will impact the program. Questions around whether the criteria would change or be weighted differently every call for projects was mentioned when discussing the difficulty in selecting the most significant regional projects. Since the projects are going to be large and ongoing with the creation of a new program, we recommend developing a pre-application proposal phase or a prescreen with letters of interest similar to the New Starts program.

Strengthening Mobility and Revolutionizing Transportation (SMART) Program

It is encouraging to see local and regional eligibility for the SMART program, but a more suitable fit for MPOs within this program may be as a convener and not direct implementer in some cases. Since mobility is an issue at the regional level, we would encourage any applicants be encouraged to consult with their MPOs or regional planning organizations during the application phase of this program. If an MPO were to implement this program, there would be capacity concerns since administrative expenses are not an eligible use of funds. There is also no project financial floor or ceiling so clarity is needed on the scale of projects USDOT will be seeking. The amount of program goals within the bill text may lead to confusion if all of those are incorporated in the final NOFO with any weight or focus. Once again, we encourage the FHWA to provide one on one to potential applicants during the application phase versus after projects are selected for this program.

Healthy Streets Program

With the local and regional eligibility (except RTPOs are not explicitly eligible) within the program, it was great to see the hiring of staff to carry out activities as an eligible expense. We hope that will be the rule and not the exception going forward. There is also mention of the Secretary allowing 100 percent federal if there is economic hardship. Most MPOs and local governments are oversubscribed already with the implementation and coordination of federal formula programming, so we encourage the economic hardship exception be used wherever possible. Also, limited NEPA requirements or categorical exclusions should be considered to keep project costs lower and to get this money out the door as quickly as possible.

Working Group Members:

Thea Walsh, co-chair	Mid-Ohio Regional Planning Commission	OH
Laura Wilkison, co-chair	Chicago Metropolitan Agency for Planning	IL
Lara Bouck	MetroPlan Orlando	FL
Paul Calvaresi	Broward MPO	FL
Cole Hiniker	Metropolitan Council	MN
Timothy McMahon	Chicago Metropolitan Agency for Planning	IL
Chet Parsons	PlanRVA	VA
Rachael Pawlak	East-West Gateway Council of Governments	MO
Bill Regner	Town of Clarkdale	AZ
Julie Sanders	Southwest Oklahoma RTPO	OK
Kofi Wakhisi	Atlanta Regional Commission	GA