

that—despite whatever other restrictions on confidentiality are imposed, and whether entered into by consent or judicial fiat—specifically allows for disclosure of relevant motor vehicle safety information to NHTSA and other applicable governmental authorities. Such a provision could be stated generically, providing that nothing in the order or agreement shall be construed to prohibit either party from disclosing information to a regulatory agency or governmental entity who has an interest in the subject matter of the underlying suit. For example, the provision could state that “discovery material may only be disclosed to . . . governmental entities with an interest in the public safety hazards involving [description of product/vehicle].” Or, it could specifically address NHTSA’s interest, as contemplated by the recent NHTSA Consent Order requiring Chrysler to “develop and implement a plan ensuring that, in safety-related litigation, FCA US uses its best efforts to include in any protective order, settlement agreement, or equivalent, a provision that explicitly allows FCA US to provide information and documents to NHTSA.” See *In re: FCA US LLC*, AQ14–003, July 24, 2015 Consent Order, Attachment A, p. 27 at ¶ (B)(12), available at [www.safercar.gov/rs/chrysler/pdfs/FCA\\_Consent\\_Order.pdf](http://www.safercar.gov/rs/chrysler/pdfs/FCA_Consent_Order.pdf). Private litigants should tailor the use of confidentiality provisions in a way that protects legitimate proprietary interests while still allowing for the provision of relevant information to NHTSA. The Agency is not endorsing any particular language that should be utilized; the parties themselves are in the best position to determine how that can be accomplished. Given the global interest in protecting and promoting public safety, the Agency is confident that in employing the use of confidentiality provisions, private litigants can and will agree on appropriate processes or procedures that may be implemented to address any concerns regarding the dissemination of proprietary information.

Whatever the language, confidentiality agreements and protective orders should not be utilized to prevent the parties from providing information that implicates public safety to the very entity charged with ensuring and protecting that safety. Instead, such orders and agreements should clearly authorize and facilitate the disclosure of safety-related information to NHTSA. Such a provision is consistent with, and in some cases mandated by, federal and

state statutory schemes and regulations and applicable case law, and is wholly in line with principles of sound public policy.

**Applicability/Legal Statement:** This Enforcement Guidance Bulletin sets forth NHTSA’s current interpretation and thinking on this topic and guiding principles and best practices to be utilized in the context of private litigation. This Bulletin is not a final agency action and is intended as guidance only. This Bulletin is not intended, nor can it be relied upon, to create any rights enforceable by any party against NHTSA, the Department of Transportation, or the United States. Moreover, these recommended practices do not establish any defense to any violations of the statutes and regulations that NHTSA administers. This Bulletin may be revised in writing without notice to reflect changes in NHTSA’s evaluation and analysis, or to clarify and update text.

**Authority:** 49 U.S.C. 30101, *et seq.*; delegations of authority at 49 CFR 1.95(a), 501.2(a)(1), 501.5.

Issued: February 29, 2016.

**Mark R. Rosekind,**

*Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### Intelligent Transportation Systems Program Advisory Committee; Notice of Meeting

**AGENCY:** ITS Joint Program Office, Office of the Assistant Secretary for Research and Technology, U.S. Department of Transportation.

**ACTION:** Notice.

The Intelligent Transportation Systems (ITS) Program Advisory Committee (ITSPAC) will hold a meeting on March 31, 2016, from 8:00 a.m. to 4:00 p.m. (EDT) in the Crystal Gateway Marriott Hotel, 1700 Jefferson Davis Highway, Arlington, VA 22202.

The ITSPAC, established under Section 5305 of Public Law 109–59, Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, August 10, 2005, and re-established under Section 6007 of Public Law 114–94, Fixing America’s Surface Transportation (FAST) Act, December 4, 2015, was created to advise the Secretary of Transportation on all matters relating to the study, development, and implementation of intelligent transportation systems. Through its sponsor, the ITS Joint Program Office (JPO), the ITSPAC makes

recommendations to the Secretary regarding ITS Program needs, objectives, plans, approaches, content, and progress.

The following is a summary of the meeting tentative agenda: (1) Welcome, (2) Discussion of the FAST Act, (3) Discussion of Potential Advice Memorandum Topics, (4) Summary and Adjourn.

The meeting will be open to the public, but limited space will be available on a first-come, first-served basis. Members of the public who wish to present oral statements at the meeting must submit a request to [ITSPAC@dot.gov](mailto:ITSPAC@dot.gov), not later than March 24, 2016.

Questions about the agenda or written comments may be submitted by U.S. Mail to: U.S. Department of Transportation, Office of the Assistant Secretary for Research and Technology, ITS Joint Program Office, Attention: Stephen Glasscock, 1200 New Jersey Avenue SE., HOIT, Washington, DC 20590 or faxed to (202) 493–2027. The ITS JPO requests that written comments be submitted not later than March 24, 2016.

Notice of this conference is provided in accordance with the Federal Advisory Committee Act and the General Services Administration regulations (41 CFR part 102–3) covering management of Federal advisory committees.

Issued in Washington, DC, on the 7th day of March, 2016.

**Stephen Glasscock,**

*Designated Federal Officer, ITS Joint Program Office.*

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary of Transportation

#### Letters of Interest for Credit Assistance Under the Transportation Infrastructure Finance and Innovation Act (TIFIA) Program

**AGENCY:** Office of the Secretary of Transportation (OST), U.S. Department of Transportation (the DOT), Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), Federal Transit Administration (FTA), Maritime Administration (MARAD).

**ACTION:** Notice of funding availability and request for comments.

**SUMMARY:** Pursuant to the recently enacted Fixing America’s Surface Transportation Act (the FAST Act), the DOT announces the availability of