

- (i) species listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);
- (ii) species identified by a State as species of greatest conservation need;
- (iii) species identified in State wildlife plans; and
- (iv) medium and small terrestrial and aquatic species; and

(C) habitat connectivity values for terrestrial and aquatic species and the barrier effect of the highway on the movements and migrations of those species.

(Added Pub. L. 117–58, div. A, title I, §11123(c)(1), Nov. 15, 2021, 135 Stat. 502.)

#### Editorial Notes

##### REFERENCES IN TEXT

The date of enactment of the Surface Transportation Reauthorization Act of 2021, referred to in subsecs. (a)(3)(A), (b)(1), and (c)(3), is the date of enactment of div. A of Pub. L. 117–58, which was approved Nov. 15, 2021.

The Endangered Species Act of 1973, referred to in subsecs. (a)(3)(B)(i)(III)(aa) and (d)(1)(B)(i), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, which is classified principally to chapter 35 (§1531 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of Title 16 and Tables.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as an Effective Date of 2021 Amendment note under section 101 of this title.

### § 173. Rural surface transportation grant program

(a) DEFINITIONS.—In this section:

(1) PROGRAM.—The term “program” means the program established under subsection (b)(1).

(2) RURAL AREA.—The term “rural area” means an area that is outside an urbanized area with a population of over 200,000.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a rural surface transportation grant program to provide grants, on a competitive basis, to eligible entities to improve and expand the surface transportation infrastructure in rural areas.

(2) GOALS.—The goals of the program shall be—

- (A) to increase connectivity;
- (B) to improve the safety and reliability of the movement of people and freight; and
- (C) to generate regional economic growth and improve quality of life.

(3) GRANT ADMINISTRATION.—The Secretary may—

(A) retain not more than a total of 2 percent of the funds made available to carry out the program and to review applications for grants under the program; and

(B) transfer portions of the funds retained under subparagraph (A) to the relevant Administrators to fund the award and oversight of grants provided under the program.

(c) ELIGIBLE ENTITIES.—The Secretary may make a grant under the program to—

- (1) a State;
- (2) a regional transportation planning organization;
- (3) a unit of local government;
- (4) a Tribal government or a consortium of Tribal governments; and
- (5) a multijurisdictional group of entities described in paragraphs (1) through (4).

(d) APPLICATIONS.—To be eligible to receive a grant under the program, an eligible entity shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary may require.

(e) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may make a grant under the program only for a project that is—

(A) a highway, bridge, or tunnel project eligible under section 119(d);

(B) a highway, bridge, or tunnel project eligible under section 133(b);

(C) a project eligible under section 202(a);

(D) a highway freight project eligible under section 167(h)(5);

(E) a highway safety improvement project, including a project to improve a high risk rural road (as those terms are defined in section 148(a));

(F) a project on a publicly-owned highway or bridge that provides or increases access to an agricultural, commercial, energy, or intermodal facility that supports the economy of a rural area; or

(G) a project to develop, establish, or maintain an integrated mobility management system, a transportation demand management system, or on-demand mobility services.

(2) BUNDLING OF ELIGIBLE PROJECTS.—

(A) IN GENERAL.—An eligible entity may bundle 2 or more similar eligible projects under the program that are—

(i) included as a bundled project in a statewide transportation improvement program under section 135; and

(ii) awarded to a single contractor or consultant pursuant to a contract for engineering and design or construction between the contractor and the eligible entity.

(B) ITEMIZATION.—Notwithstanding any other provision of law (including regulations), a bundling of eligible projects under this paragraph may be considered to be a single project, including for purposes of section 135.

(f) ELIGIBLE PROJECT COSTS.—An eligible entity may use funds from a grant under the program for—

(1) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities; and

(2) construction, reconstruction, rehabilitation, acquisition of real property (including land related to the project and improvements

to the land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements.

(g) **PROJECT REQUIREMENTS.**—The Secretary may provide a grant under the program to an eligible project only if the Secretary determines that the project—

- (1) will generate regional economic, mobility, or safety benefits;
- (2) will be cost effective;
- (3) will contribute to the accomplishment of 1 or more of the national goals under section 150;
- (4) is based on the results of preliminary engineering; and
- (5) is reasonably expected to begin construction not later than 18 months after the date of obligation of funds for the project.

(h) **ADDITIONAL CONSIDERATIONS.**—In providing grants under the program, the Secretary shall consider the extent to which an eligible project will—

- (1) improve the state of good repair of existing highway, bridge, and tunnel facilities;
- (2) increase the capacity or connectivity of the surface transportation system and improve mobility for residents of rural areas;
- (3) address economic development and job creation challenges, including energy sector job losses in energy communities as identified in the report released in April 2021 by the interagency working group established by section 218 of Executive Order 14008 (86 Fed. Reg. 7628 (February 1, 2021));
- (4) enhance recreational and tourism opportunities by providing access to Federal land, national parks, national forests, national recreation areas, national wildlife refuges, wilderness areas, or State parks;
- (5) contribute to geographic diversity among grant recipients;
- (6) utilize innovative project delivery approaches or incorporate transportation technologies;
- (7) coordinate with projects to address broadband infrastructure needs; or
- (8) improve access to emergency care, essential services, healthcare providers, or drug and alcohol treatment and rehabilitation resources.

(i) **GRANT AMOUNT.**—Except as provided in subsection (k)(1), a grant under the program shall be in an amount that is not less than \$25,000,000.

(j) **FEDERAL SHARE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the Federal share of the cost of a project carried out with a grant under the program may not exceed 80 percent.

(2) **FEDERAL SHARE FOR CERTAIN PROJECTS.**—The Federal share of the cost of an eligible project that furthers the completion of a designated segment of the Appalachian Development Highway System under section 14501 of title 40, or addresses a surface transportation infrastructure need identified for the Denali access system program under section 309 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277) shall be up to 100 percent, as determined by the State.

(3) **USE OF OTHER FEDERAL ASSISTANCE.**—Federal assistance other than a grant under the

program may be used to satisfy the non-Federal share of the cost of a project carried out with a grant under the program.

(k) **SET ASIDES.**—

(1) **SMALL PROJECTS.**—The Secretary shall use not more than 10 percent of the amounts made available for the program for each fiscal year to provide grants for eligible projects in an amount that is less than \$25,000,000.

(2) **APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.**—The Secretary shall reserve 25 percent of the amounts made available for the program for each fiscal year for eligible projects that further the completion of designated routes of the Appalachian Development Highway System under section 14501 of title 40.

(3) **RURAL ROADWAY LANE DEPARTURES.**—The Secretary shall reserve 15 percent of the amounts made available for the program for each fiscal year to provide grants for eligible projects located in States that have rural roadway fatalities as a result of lane departures that are greater than the average of rural roadway fatalities as a result of lane departures in the United States, based on the latest available data from the Secretary.

(4) **EXCESS FUNDING.**—In any fiscal year in which qualified applications for grants under this subsection do not allow for the amounts reserved under paragraphs (1), (2), or (3) to be fully utilized, the Secretary shall use the unutilized amounts to make other grants under the program.

(l) **CONGRESSIONAL REVIEW.**—

(1) **NOTIFICATION.**—Not less than 60 days before providing a grant under the program, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

- (A) a list of all applications determined to be eligible for a grant by the Secretary;
- (B) each application proposed to be selected for a grant, including a justification for the selection; and
- (C) proposed grant amounts.

(2) **COMMITTEE REVIEW.**—Before the last day of the 60-day period described in paragraph (1), each Committee described in paragraph (1) shall review the list of proposed projects submitted by the Secretary.

(3) **CONGRESSIONAL DISAPPROVAL.**—The Secretary may not make a grant or any other obligation or commitment to fund a project under the program if a joint resolution is enacted disapproving funding for the project before the last day of the 60-day period described in paragraph (1).

(m) **TRANSPARENCY.**—

(1) **IN GENERAL.**—Not later than 30 days after providing a grant for a project under the program, the Secretary shall provide to all applicants, and publish on the website of the Department of Transportation, the information described in subsection (l)(1).

(2) **BRIEFING.**—The Secretary shall provide, on the request of an eligible entity, the opportunity to receive a briefing to explain any reasons the eligible entity was not selected to receive a grant under the program.

## (n) REPORTS.—

(1) ANNUAL REPORT.—The Secretary shall make available on the website of the Department of Transportation at the end of each fiscal year an annual report that lists each project for which a grant has been provided under the program during that fiscal year.

## (2) COMPTROLLER GENERAL.—

(A) ASSESSMENT.—The Comptroller General of the United States shall conduct an assessment of the administrative establishment, solicitation, selection, and justification process with respect to the awarding of grants under the program for each fiscal year.

(B) REPORT.—Each fiscal year, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes, for the fiscal year—

(i) the adequacy and fairness of the process by which each project was selected, if applicable; and

(ii) the justification and criteria used for the selection of each project, if applicable.

(o) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, a project assisted under this section shall be treated as a project on a Federal-aid highway under this chapter.

(Added Pub. L. 117–58, div. A, title I, § 11132(a), Nov. 15, 2021, 135 Stat. 510.)

**Editorial Notes**

## REFERENCES IN TEXT

Executive Order 14008, referred to in subsec. (h)(3), is Ex. Ord. No. 14008, Jan. 27, 2021, 86 F.R. 7619, which is set out as a note under section 4321 of Title 42, The Public Health and Welfare.

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE

Section effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as an Effective Date of 2021 Amendment note under section 101 of this title.

**§ 174. State human capital plans**

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Secretary shall encourage each State to develop a voluntary plan, to be known as a “human capital plan”, that provides for the immediate and long-term personnel and workforce needs of the State with respect to the capacity of the State to deliver transportation and public infrastructure eligible under this title.

## (b) PLAN CONTENTS.—

(1) IN GENERAL.—A human capital plan developed by a State under subsection (a) shall, to the maximum extent practicable, take into consideration—

(A) significant transportation workforce trends, needs, issues, and challenges with respect to the State;

(B) the human capital policies, strategies, and performance measures that will guide the transportation-related workforce investment decisions of the State;

(C) coordination with educational institutions, industry, organized labor, workforce boards, and other agencies or organizations to address the human capital transportation needs of the State;

(D) a workforce planning strategy that identifies current and future human capital needs, including the knowledge, skills, and abilities needed to recruit and retain skilled workers in the transportation industry;

(E) a human capital management strategy that is aligned with the transportation mission, goals, and organizational objectives of the State;

(F) an implementation system for workforce goals focused on addressing continuity of leadership and knowledge sharing across the State;

(G) an implementation system that addresses workforce competency gaps, particularly in mission-critical occupations;

(H) in the case of public-private partnerships or other alternative project delivery methods to carry out the transportation program of the State, a description of workforce needs—

(i) to ensure that the transportation mission, goals, and organizational objectives of the State are fully carried out; and

(ii) to ensure that procurement methods provide the best public value;

(I) a system for analyzing and evaluating the performance of the State department of transportation with respect to all aspects of human capital management policies, programs, and activities; and

(J) the manner in which the plan will improve the ability of the State to meet the national policy in support of performance management established under section 150.

(2) PLANNING PERIOD.—If a State develops a human capital plan under subsection (a), the plan shall address a 5-year forecast period.

(c) PLAN UPDATES.—If a State develops a human capital plan under subsection (a), the State shall update the plan not less frequently than once every 5 years.

## (d) RELATIONSHIP TO LONG-RANGE PLAN.—

(1) IN GENERAL.—Subject to paragraph (2), a human capital plan developed by a State under subsection (a) may be developed separately from, or incorporated into, the long-range statewide transportation plan required under section 135.

(2) EFFECT OF SECTION.—Nothing in this section requires a State, or authorizes the Secretary to require a State, to incorporate a human capital plan into the long-range statewide transportation plan required under section 135.

(e) PUBLIC AVAILABILITY.—Each State that develops a human capital plan under subsection (a) shall make a copy of the plan available to the public in a user-friendly format on the website of the State department of transportation.

(f) SAVINGS PROVISION.—Nothing in this section prevents a State from carrying out transportation workforce planning—

(1) not described in this section; or