



QUESTIONS & ANSWERS FROM THE FAST ACT WEBINAR

Thursday 7 January 2016; 2:30-4:00pm EST

Recording of the Webinar Available at <http://fast.transportation.org>

CONTENT OUTLINE AND LIST OF PRESENTERS

1. **Introductory Remarks** (Paul Trombino, AASHTO President; Dave Bernhardt, AASHTO Vice President)
2. **Overview of the FAST Act** (Bud Wright, Executive Director)
3. **Issue Area Briefs**
 - **Program Structure** (Joung Lee, Policy Director, jlee@aaashto.org)
 - **Revenue and Financing** (Joung Lee, Policy Director, jlee@aaashto.org)
 - **Freight** (Joung Lee, Policy Director, jlee@aaashto.org)
 - **Program and Project Delivery** (Shannon Eggleston, Program Director for Environment, seggleston@aaashto.org)
 - **Performance Management, Planning, and Asset Management** (Matt Hardy, Program Director for Planning and Performance Management, mhardy@aaashto.org)
 - **Design Standards** (Trisha Bush, Program Manager for Engineering, pbush@aaashto.org)
 - **Research and Innovation** (Jim Tymon, Director of Policy and Management/COO, jtymon@aaashto.org)
 - **Highway Safety** (Jim Tymon, Director of Policy and Management/COO, jtymon@aaashto.org)
 - **Public Transportation** (Shayne Gill, Senior Program Manager for Aviation, Passenger Rail, and Public Transportation, sgill@aaashto.org)
 - **Rail Transportation** (Shayne Gill, Senior Program Manager for Aviation, Passenger Rail, and Public Transportation, sgill@aaashto.org)
4. **Anticipated Challenges** (Jim Tymon, Director of Policy and Management/COO, jtymon@aaashto.org)
5. **Questions and Answers**

QUESTIONS & ANSWERS

PROGRAM AND PROJECT DELIVERY

1. Early scoping concurrence is not required for CE's or EA's, correct?
 - A scoping process is required for environmental impact statements; scoping is not required for categorical exclusions or environmental assessments. Lead agencies use scoping to engage State, local and tribal governments and the public in the early identification of concerns, potential impacts, relevant effects of past actions and possible alternative actions. In scoping meetings, the lead agency is responsible for determining the scope of an environmental impact statement; suggestions obtained during scoping are options for the lead agency to consider.
2. Re: Sec. 1314 – Could you please elaborate a little more on how the annual indexing for CEs receiving limited federal assistance would work?
 - FAST requires annual indexing of the financial thresholds for the categorical exclusion for projects with limited Federal assistance, in accordance with the consumer price index. Limited funding is defined as any project that receives less than \$5,000,000 in Federal funds, or has a total estimated cost of less than \$30,000,000, with Federal funds comprising less than 15 percent of the total estimated cost of the project.
3. Re: Sec. 1422- Are EPA general permits for stormwater discharge applicable to both EO and PR or only PR?
 - Section 1432 of the FAST Act requires application of EPA's stormwater general permit for emergency transportation infrastructure reconstruction activities. Such emergency must be declared by the Governor of the State, with the concurrence of the Secretary of Homeland Security, or declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 USC 5121).

FREIGHT

4. What state has already or is currently developing a State Freight Plan?
 - **Have:** California, Colorado, District of Columbia, Georgia, Florida, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Jersey, New Mexico, North Dakota, Oklahoma, Oregon, South Carolina, Texas, Utah, Vermont, Washington State
 - **Currently Developing:** Alabama, Alaska, Arizona, Connecticut, Iowa, Kansas, Maryland, Minnesota, Nevada, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, Wisconsin, Wyoming
5. What is the plan for allocating the funding in the Nationally Significant Freight and Highway Projects discretionary program this fiscal year (FY 2016)?
 - It is yet to be determined by the USDOT. Should there be any unused obligation authority available, it may be redistributed in August 2016.

PERFORMANCE MEASURES

6. Do we expect any kind of overlaps between MAP-21 & FAST for Performance Measures, if any? If so, how to report on these overlaps
 - The only significant change to the MAP-21 performance management requirements is the FAST Act reducing from two to one the number of reporting cycles prior to penalties being imposed if significant progress is not achieved towards targets established by the State DOTs. There are no new national-level performance measures required as part of the FAST Act. The only national-level performance measures that State DOTs will have to report on are those identified in MAP-21 and currently being developed by USDOT/FHWA through the rulemaking process. The final notice of proposed rulemaking for the system performance measures (PM3) is supposed to be published in

January 2016. The final rules related to safety, bridge, and pavement performance measures should be published in Summer 2016.

RAIL

7. Please tell me more about railroad corridors no longer being eligible for the National Register of historic places FAST provides that improvements to, or the maintenance, rehabilitation, or operation of, railroad or rail transit lines that are in use or were historically used for the transportation of goods or passengers will not be considered a use of an historic site regardless of whether the line is on or eligible for the National Register of Historic Places.
Stations and bridges or tunnels located on railroad lines that have been abandoned or transit lines that are not in use are exempt from this exemption. Also, the exemption does not apply to bridges or tunnels located on railroad or transit lines over which service has been discontinued or that have been railbanked or otherwise reserved for the transportation of goods and services.
8. Can you provide us with more info on the 2017 rail grants?
 - The authorized capital grant program would be discretionary and competitive similar to the High Speed/Intercity Passenger Rail Program under the 2009 American Recovery and Reinvestment Act for passenger rail capital grant programs, and will be split 80 percent Federal with a 20 percent State Match. Since no funding was received in FY 2016, the FRA will develop the program and eligibility for projects this year. In FY 2017, the program would need to receive funding through that year's appropriations process.

RESEARCH

9. From slide 29, can you please expound on new research activities that have been mandated and what that really means for state SPR research funding?
 - New research mandates under the FAST Act are reliant upon the general research dollars administered by the FHWA. Since State Planning and Research dollars are derived from apportioned programs, and since those apportioned programs saw a slight increase in funding (5 percent in the first year, then about 2 percent each year thereafter), states should see corresponding increase in SPR funding during the FAST Act years.
10. When you say that the research will have mandates that will take some of the funding, is this on a National level "off the top" or individual states will have mandated areas they need to spend their funds?
 - Please see question 9.
11. Does the decrease in flexibility for research funds affect only FHWA programs or also SPR funds? Does the SPR percent takedown from various funding categories remain the same as in previous highway bills?
 - Please see question 9.

SAFETY

12. Are there varying "percentage match" requirements for the Transportation Safety funds that could possibly be used for ITS/TSM&O deployments?
 - No.
13. Regarding safety, please expand on the definition of non-infrastructure projects. Will the funding change eliminating funds for education and enforcement limit other non-infrastructure projects such as SHSP planning and implementation efforts?
 - Eligible projects under the Highway Safety Improvement Program in MAP-21 included any strategy, activity or project on a public road that is consistent with the data-driven State Strategic Highway

Safety Plan and corrects or improves a hazardous road location or feature or addresses a highway safety problem. MAP-21 provides an example list of eligible activities, but HSIP projects were not limited to those on the list. Under MAP-21, eligible projects are limited only to those on the list, and from this list, eligibilities related to education, enforcement, and emergency medical services have been removed in the FAST Act.

14. Will the FAST Act Safety Program support the new “automated car”?
 - On the research front, there is a significant emphasis in the FAST Act to support technological advancement of infrastructure and vehicle technology. However, HSIP funding eligibilities remain generally the same as under MAP-21 with the exception of the educational eligibilities noted in question 13.
15. Does the HSIP funding prohibition for non-infrastructure projects also apply to the Sec. 154/164 transfer funds?
 - Yes.
16. Do the changes in HSIP funding disallow them from being used for research activities?
 - Please see question 14.

SURFACE TRANSPORTATION BLOCK GRANT PROGRAM/TRANSPORTATION ALTERNATIVES PROGRAM

17. What is the intent of the renamed Surface Transportation Block Grant Program?
 - The intent is to provide a clearer description of the flexible nature of this program category. However, the general eligibilities remain very similar to the former Surface Transportation Program.
18. Does the Surface Transportation Block Grant Program Set-aside follow a population distribution (like the MAP-21 TAP program)?
 - Yes.
19. Are there differences in the types of eligible projects for STP-BG v. STP-BG Set-Aside?
 - STBGP eligible projects are similar to projects which were eligible under the old STP. STBGP Set-aside eligible projects are similar to projects which were eligible under the old Transportation Alternatives Program.
20. Section 1104(h)(A)(i) includes annual increases to the STP Block Grant set-asides (\$55,426,310 in FFY 2015-16). However, Section 133(h) is silent about these increases. Which is correct and what is the intent?
 - The FAST Act includes “Supplemental Funds” for NHPP and STBGP and STBGP Set-aside. These increases, by not being included in suballocation calculations, are intended to ensure that states do not receive less overall state-specific funding than what they received in MAP-21.
21. With the Transportation Alternatives program, can up to 75% of funds be transferred out? All of Transportation Alternatives anywhere and 50% of Transportation Alternatives by population?
 - TAP has been renamed as STBGP Set-aside, and yes, potentially all of the State’s share (50 percent of total STBGP Set-aside) plus half of the suballocated portion (25 percent of total STBGP Set-aside) could be transferred out.

OTHER ISSUE AREAS

22. What is meant by “flexibility in “buying down” TIFIA subsidy”?
 - In addition to applying for contract authority and obligation authority available under the TIFIA program, States could elect to use part of their NHPP, STBGP apportionments to pay for subsidy costs

associated with a TIFIA loan, or apply for Nationally Significant Highway Freight Projects funding to direct such discretionary funds towards a TIFIA subsidy. This additional flexibility is intended to offset a significant funding reduction in the TIFIA program under the FAST Act.

23. Does the FAST Act affect any MAP-21 regulations concerning the Heavy Metal limits for glass beads used in pavement markings for roads?
 - No.
24. Is AASHTO working on developing tracking tools such as red-line changes to USC, list of NPRMs that will need to occur, etc.?
 - AASHTO is currently seeking to develop or obtain a redlined version of Title 23 of the US Code.
25. Please comment on the schedule for NHS redesignation.
 - Section 1122 of the FAST Act requires USDOT to issue guidance to the State DOTs on how to review roads classified as principal arterials in the State that were added to the National Highway System as of October 1, 2012. The FAST Act gives USDOT 90 days to develop and issue the guidance. MAP-21 required that all roadways classified as principal arterials automatically become part of the National Highway System. This created some issues such as isolated roadways being designated as NHS that were not connected to other NHS routes. This new requirement builds upon an initiative undertaken by FHWA in 2014, at the request of the State DOTs, to reexamine the principal arterial designation as a result of the MAP-21 requirements. As part of that initiative, FHWA issued guidance to the Division Offices to work with the State DOTs to re-designate principal arterials such that they were not considered NHS routes where it made sense. More information about the redesignation guidance that was issued by FHWA in 2014 is available here:
http://www.fhwa.dot.gov/planning/national_highway_system/nhs_maps/nhs21914.cfm.
26. Does this legislation supersede or will it be implemented in tandem with MAP-21 legislation?
 - As with any legislation, only the changes noted under the FAST Act will alter provisions based in MAP-21 and other preceding surface transportation authorizations. In addition to unchanged provisions in general, it is important to note that the performance management framework for the Federal-aid Highway Program established under MAP-21 remains intact with very minor alterations.