

**DEPARTMENT OF TRANSPORTATION**

**Office of the Secretary of Transportation**

**Notice of Funding Opportunity for the Department of Transportation's National Infrastructure Investments under the Consolidated Appropriations Act, 2019**

**AGENCY:** Office of the Secretary of Transportation, DOT

**ACTION:** Notice of Funding Opportunity

**SUMMARY:** The Consolidated Appropriations Act, 2019 (Pub. L. 116-6, February 15, 2019) ("FY 2019 Appropriations Act") appropriated \$900 million to be awarded by the Department of Transportation ("DOT") for National Infrastructure Investments. This appropriation stems from the program funded and implemented pursuant to the American Recovery and Reinvestment Act of 2009 (the "Recovery Act") and is known as the Better Utilizing Investments to Leverage Development, or "BUILD Transportation grants," program. Funds for the FY 2019 BUILD Transportation grants program are to be awarded on a competitive basis for surface transportation infrastructure projects that will have a significant local or regional impact. The purpose of this notice is to solicit applications for BUILD Transportation grants.

**DATES:** Applications must be submitted by 8:00 PM E.D.T. on July 15, 2019.

**ADDRESSES:** Applications must be submitted through [Grants.gov](https://www.grants.gov).

**FOR FURTHER INFORMATION CONTACT:** For further information concerning this notice, please contact the BUILD Transportation grants program staff via e-mail at [BUILDgrants@dot.gov](mailto:BUILDgrants@dot.gov), or call Howard Hill at 202-366-0301. A TDD is available for individuals who are deaf or hard of hearing at 202-366-3993. In addition, DOT will

regularly post answers to questions and requests for clarifications as well as information about webinars for further guidance on DOT's website at

[www.transportation.gov/BUILDgrants](http://www.transportation.gov/BUILDgrants).

**SUPPLEMENTARY INFORMATION:** The FY 2019 BUILD Transportation grant program will make awards to surface transportation infrastructure projects that will have a significant impact throughout the country. Each section of this notice contains information and instructions relevant to the application process for these BUILD Transportation grants, and all applicants should read this notice in its entirety so that they have the information they need to submit eligible and competitive applications. For this round of BUILD Transportation grants, the maximum grant award is \$25 million, and no more than \$90 million can be awarded to a single State, as specified in the FY 2019 Appropriations Act. Per statute, the FY 2019 selection criteria are the same as under the FY 2017 TIGER program, although the description for each criterion has been updated. For FY 2019 BUILD Transportation grants, the definitions of urban and rural areas differ from previous rounds. Additionally, not more than 50 percent of funds will be awarded to projects located in urban and rural areas, respectively.

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**A. Program Description**

The Consolidated Appropriations Act, 2019 (Pub. L. 116-6, February 15, 2019) (“FY 2019 Appropriations Act”) appropriated \$900 million to be awarded by the Department of Transportation (“DOT”) for National Infrastructure Investments. Since this program was created, \$7.1 billion has been awarded for capital investments in surface transportation infrastructure over ten rounds of competitive grants. Throughout the program, these discretionary grant awards have supported projects that have a significant local or regional impact.

Like the FY 2017 TIGER program, the FY 2019 BUILD program will also give special consideration to projects which emphasize improved access to reliable, safe, and affordable transportation for communities in rural areas, such as projects that improve infrastructure condition, address public health and safety, promote regional connectivity or facilitate economic growth or competitiveness. Such projects may concurrently invest in broadband to better facilitate productivity, including through the U.S. Department of Agriculture’s ReConnect Loan and Grant program, and help rural citizens access opportunities, or promote energy independence to help deliver significant local or regional economic benefit.

**B. Federal Award Information**

**1. Amount Available**

The FY 2019 Appropriations Act appropriated \$900 million to be awarded by DOT for the BUILD Transportation grants program. The FY 2019 BUILD Transportation

grants are for capital investments in surface transportation infrastructure and are to be awarded on a competitive basis for projects that will have a significant local or regional impact. Additionally, the Act allows for up to \$15 million (of the \$900 million) to be awarded for the planning, preparation or design of eligible projects. DOT is referring to any such awards as BUILD Transportation planning grants. The FY 2019 Appropriations Act also allows DOT to retain up to \$27 million of the \$900 million for award, oversight and administration of grants and credit assistance made under the program. If this solicitation does not result in the award and obligation of all available funds, DOT may publish additional solicitations.

The FY 2019 Appropriations Act allows up to 20 percent of available funds (or \$180 million) to be used by the Department to pay the subsidy and administrative costs of a project receiving credit assistance under the Transportation Infrastructure Finance and Innovation Act of 1998 (“TIFIA”) or Railroad Rehabilitation and Improvement Financing (RRIF) programs, if that use of the FY 2019 BUILD funds would further the purposes of the BUILD Transportation grants program.

## **2. Award Size**

The FY 2019 Appropriations Act specifies that BUILD Transportation grants may not be less than \$5 million and not greater than \$25 million, except that for projects located in rural areas (as defined in Section C.3.ii.) the award size is \$1 million. There is no minimum award size, regardless of location, for BUILD Transportation planning grants.

## **3. Restrictions on Funding**

Pursuant to the FY 2019 Appropriations Act, no more than 10 percent of the funds made available for BUILD Transportation grants (or \$90 million) may be awarded to

projects in a single State. The Act also directs that not more than 50 percent of the funds provided for BUILD Transportation grants (or \$450 million) shall be used for projects located in rural areas with population equal to or less than 200,000, and directs that not more than 50 percent of the funds provided for BUILD Transportation grants (or \$450 million) shall be used for projects located in urbanized areas with a population of more than 200,000. Further, DOT must take measures to ensure an equitable geographic distribution of grant funds, an appropriate balance in addressing the needs of urban and rural areas, and investment in a variety of transportation modes.

#### **4. Availability of Funds**

The FY 2019 Appropriations Act requires that FY 2019 BUILD Transportation grants funds are available for obligation only through September 30, 2021. Obligation occurs when a selected applicant and DOT enter into a written grant agreement after the applicant has satisfied applicable administrative requirements, including transportation planning and environmental review requirements. Unless authorized by the Department in writing after the Department's announcement of FY 2019 BUILD awards, any costs incurred prior to the Department's obligation of funds for a project are ineligible for reimbursement.<sup>1</sup> All FY 2019 BUILD funds must be expended (the grant obligation must be liquidated or actually paid out to the grantee) by September 30, 2026. After this date, unliquidated funds are no longer available to the project. As part of the review and

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<sup>1</sup> Pre-award costs are only costs incurred directly pursuant to the negotiation and anticipation of the BUILD award where such costs are necessary for efficient and timely performance of the scope of work, as determined by DOT. Costs incurred under an advance construction (23 U.S.C. 115) authorization before the DOT announces that a project is selected for a FY 2019 BUILD award cannot be charged to FY 2019 BUILD funds.

Likewise, costs incurred under an FTA Letter of No Prejudice under Chapter 53 of title 49 U.S.C. before the DOT announces that a project is selected for a FY 2019 BUILD award cannot be charged to FY 2019 BUILD funds.

selection process described in [Section E.2.](#), DOT will consider a project's likelihood of being ready to proceed with an obligation of BUILD Transportation grant funds and complete liquidation of these obligations, within the statutory timelines. No waiver is possible for these deadlines.

## **5. Previous BUILD/TIGER Awards**

Recipients of BUILD/TIGER grants may apply for funding to support additional phases of a project previously awarded funds in the BUILD/TIGER program. However, to be competitive, the applicant should demonstrate the extent to which the previously funded project phase has met estimated project schedules and budget, as well as the ability to realize the benefits expected for the project.

### **C. Eligibility Information**

To be selected for a BUILD Transportation grant, an applicant must be an Eligible Applicant and the project must be an Eligible Project.

#### **1. Eligible Applicants**

Eligible Applicants for BUILD Transportation grants are State, local, and tribal governments, including U.S. territories, transit agencies, port authorities, metropolitan planning organizations (MPOs), and other political subdivisions of State or local governments.

Multiple States or jurisdictions may submit a joint application and must identify a lead applicant as the primary point of contact and also identify the primary recipient of the award. Each applicant in a joint application must be an Eligible Applicant. Joint applications must include a description of the roles and responsibilities of each applicant and must be signed by each applicant.

## **2. Cost Sharing or Matching**

Per the FY 2019 Appropriations Act, the Federal share of project costs for which an expenditure is made under the BUILD Transportation grant program may not exceed 80 percent for a project located in an urban area.<sup>2</sup> The Secretary may increase the Federal share of costs above 80 percent for a project located in a rural area. Urban area and rural area are defined in Section C.3.ii of this notice.

Non-Federal sources include State funds originating from programs funded by State revenue, local funds originating from State or local revenue-funded programs, or private funds. Toll credits under 23 U.S.C. 120(i) are considered a Federal source under the BUILD program and, therefore, cannot be used to satisfy the statutory cost sharing requirement of a BUILD award. Unless otherwise authorized by statute, non-Federal cost-share may not be counted as the non-Federal share for both the BUILD Transportation grant and another Federal grant program. The Department will not consider previously incurred costs or previously expended or encumbered funds towards the matching requirement for any project. Matching funds are subject to the same Federal requirements described in Section F.2. as awarded funds. If repaid from non-Federal sources, Federal credit assistance is considered non-Federal share.

## **3. Other**

### **i. Eligible Projects**

Eligible projects for BUILD Transportation grants are surface transportation capital projects that include, but are not limited to: (1) highway, bridge, or other road projects eligible under title 23, United States Code; (2) public transportation projects eligible

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<sup>2</sup> To meet match requirements, the minimum total project cost for a project located in an urban area must be \$6.25 million.

under chapter 53 of title 49, United States Code; (3) passenger and freight rail transportation projects; (4) port infrastructure investments (including inland port infrastructure and land ports of entry); and (5) intermodal projects.<sup>3</sup>

Improvements to Federally owned facilities are ineligible under the FY 2019 BUILD program. Research, demonstration, or pilot projects are eligible only if they will result in long-term, permanent surface transportation infrastructure that has independent utility as defined in Section C.3.iii.

The FY 2019 Appropriations Act allows up to \$15 million for the planning, preparation or design of eligible projects. Activities eligible for funding under BUILD Transportation planning grants are related to the planning, preparation, or design—including environmental analysis, feasibility studies, and other pre-construction activities—of surface transportation capital projects.

Applicants are strongly encouraged to submit applications only for eligible award amounts.

## **ii. Rural/Urban Definition**

For purposes of this notice, a project is designated as urban if it is located within (or on the boundary of) a Census-designated urbanized area<sup>4</sup> that had a population greater than 200,000 in the 2010 Census<sup>5</sup>. If a project is located outside a Census-designated urbanized area with a population greater than 200,000, it is designated as a rural project.

Rural and urban definitions differ in some other DOT programs, including TIFIA.

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<sup>3</sup> Please note that the Department may use a BUILD Transportation grant to pay for the surface transportation components of a broader project that has non-surface transportation components, and applicants are encouraged to apply for BUILD Transportation grants to pay for the surface transportation components of these projects.

<sup>4</sup> Updated lists of UAs as defined by the Census Bureau are available on the Census Bureau website at [http://www2.census.gov/geo/maps/dc10map/UAUC\\_RefMap/ua/](http://www2.census.gov/geo/maps/dc10map/UAUC_RefMap/ua/).

<sup>5</sup> See [www.transportation.gov/BUILDgrants](http://www.transportation.gov/BUILDgrants) for a list of UAs.



A project located in both an urban and a rural area will be designated as urban if the majority of the project's costs will be spent in urban areas. Conversely, a project located in both an urban area and a rural area will be designated as rural if the majority of the project's costs will be spent in rural areas.

This definition affects four aspects of the program: (1) not more than \$450 million of the funds provided for BUILD Transportation grants are to be used for projects in rural areas; (2) not more than \$450 million of the funds provided for BUILD Transportation grants are to be used for projects in urban areas; (3) for a project in a rural area the minimum award is \$1 million; and (4) the Secretary may increase the Federal share above 80 percent to pay for the costs of a project in a rural area.

### **iii. Project Components**

An application may describe a project that contains more than one component, and may describe components that may be carried out by parties other than the applicant. DOT may award funds for a component, instead of the larger project, if that component (1) independently meets minimum award amounts described in [Section B](#) and all eligibility requirements described in [Section C](#); (2) independently aligns well with the selection criteria specified in [Section E](#); and (3) meets National Environmental Policy Act (NEPA) requirements with respect to independent utility. Independent utility means that the component will represent a transportation improvement that is usable and represents a reasonable expenditure of DOT funds even if no other improvements are made in the area, and will be ready for intended use upon completion of that component's construction. All project components that are presented together in a single application

must demonstrate a relationship or connection between them. (See Section D.2.iv. for Required Approvals).

Applicants should be aware that, depending upon the relationship between project components and applicable Federal law, DOT funding of only some project components may make other project components subject to Federal requirements as described in Section F.2.

DOT strongly encourages applicants to identify in their applications the project components that have independent utility and separately detail costs and requested BUILD Transportation grant funding for those components. If the application identifies one or more independent project components, the application should clearly identify how each independent component addresses selection criteria and produces benefits on its own, in addition to describing how the full proposal of which the independent component is a part addresses selection criteria.

#### **iv. Application Limit**

Each lead applicant may submit no more than three applications. Unrelated project components should not be bundled in a single application for the purpose of adhering to the limit. If a lead applicant submits more than three applications as the lead applicant, only the first three received will be considered.

### **D. Application and Submission Information**

#### **1. Address**

Applications must be submitted to Grants.gov. Instructions for submitting applications can be found at [www.transportation.gov/BUILDgrants](http://www.transportation.gov/BUILDgrants) along with specific instructions for the forms and attachments required for submission.

## 2. Content and Form of Application Submission

The application must include the Standard Form 424 (Application for Federal Assistance), cover page, and the Project Narrative. More detailed information about the Project Narrative follows. Applicants should also complete and attach to their application the “BUILD 2019 Project Information” form available at [www.transportation.gov/BUILDgrants](http://www.transportation.gov/BUILDgrants).

The Department recommends that the project narrative follow the basic outline below to address the program requirements and assist evaluators in locating relevant information.

I. Project Description	See D.2.i
II. Project Location	See D.2.ii
III. Grant Funds, Sources and Uses of all Project Funding	See D.2.iii
IV. Selection Criteria	See D.2.iv. and E.1.i.
V. Project Readiness	See D.2.v. and E.1.ii
VI. Benefit Cost Analysis	See D.2.vi. and E.1.iii.

The project narrative should include the information necessary for the Department to determine that the project satisfies project requirements described in Sections B and C and to assess the selection criteria specified in Section E.1. To the extent practicable, applicants should provide supporting data and documentation in a form that is directly verifiable by the Department. The Department may ask any applicant to supplement data in its application but expects applications to be complete upon submission.

In addition to a detailed statement of work, detailed project schedule, and detailed project budget, the project narrative should include a table of contents, maps and graphics, as appropriate, to make the information easier to review. The Department recommends that the project narrative be prepared with standard formatting preferences

(a single-spaced document, using a standard 12-point font such as Times New Roman, with 1-inch margins). The project narrative may not exceed 30 pages in length, excluding cover pages and table of contents. The only substantive portions that may exceed the 30-page limit are documents supporting assertions or conclusions made in the 30-page project narrative. If possible, website links to supporting documentation should be provided rather than copies of these supporting materials. If supporting documents are submitted, applicants should clearly identify within the project narrative the relevant portion of the project narrative that each supporting document supports. The Department recommends using appropriately descriptive file names (e.g., “Project Narrative,” “Maps,” “Memoranda of Understanding and Letters of Support,” etc.) for all attachments. DOT recommends applications include the following sections:

**i. Project Description**

The first section of the application should provide a concise description of the project, the transportation challenges that it is intended to address, and how it will address those challenges. This section should discuss the project’s history, including a description of any previously completed components. The applicant may use this section to place the project into a broader context of other transportation infrastructure investments being pursued by the project sponsor, and, if applicable, how it will benefit communities in rural areas.

**ii. Project Location**

This section of the application should describe the project location, including a detailed geographical description of the proposed project, a map of the project’s location and connections to existing transportation infrastructure, and geospatial data describing

the project location. If the project is located within the boundary of a Census-designated urbanized area, the application should identify that urbanized area.

**iii. Grant Funds, Sources and Uses of Project Funds**

This section of the application should describe the project's budget. This budget should not include any previously incurred expenses. At a minimum, it should include:

(A) Project costs;

(B) For all funds to be used for eligible project costs, the source and amount of those funds;

(C) For non-Federal funds to be used for eligible project costs, documentation of funding commitments should be referenced here and included as an appendix to the application;

(D) For Federal funds to be used for eligible project costs, the amount, nature, and source of any required non-Federal match for those funds; and

(E) A budget showing how each source of funds will be spent. The budget should show how each funding source will share in each major construction activity, and present that data in dollars and percentages. Funding sources should be grouped into three categories: non-Federal; BUILD; and other Federal. If the project contains individual components, the budget should separate the costs of each project component. If the project will be completed in phases, the budget should separate the costs of each phase. The budget detail should sufficiently demonstrate that the project satisfies the statutory cost-sharing requirements described in Section C.2.

In addition to the information enumerated above, this section should provide complete information on how all project funds may be used. For example, if a particular

source of funds is available only after a condition is satisfied, the application should identify that condition and describe the applicant's control over whether it is satisfied. Similarly, if a particular source of funds is available for expenditure only during a fixed time period, the application should describe that restriction. Complete information about project funds will ensure that the Department's expectations for award execution align with any funding restrictions unrelated to the Department, even if an award differs from the applicant's request.

**iv. Selection Criteria**

This section of the application should demonstrate how the project aligns with the Criteria described in Section E.1 of this notice. The Department encourages applicants to either address each criterion or expressly state that the project does not address the criterion. Applicants are not required to follow a specific format, but the outline suggested below, which addresses each criterion separately, promotes a clear discussion that assists project evaluators. To minimize redundant information in the application, the Department encourages applicants to cross-reference from this section of their application to relevant substantive information in other sections of the application. The guidance in this section is about how the applicant should organize their application. Guidance describing how the Department will evaluate projects against the Selection Criteria is in Section E.1 of this notice. Applicants also should review that section before considering how to organize their application.

## (1) Primary Selection Criteria

### (a) Safety

This section of the application should describe the anticipated outcomes of the project that support the Safety criterion (described in Section E.1.i.(a) of this notice). The applicant should include information on, and to the extent possible, quantify, how the project would improve safety outcomes within the project area or wider transportation network, to include how the project will reduce the number, rate, and consequences of transportation-related accidents, serious injuries, and fatalities. If applicable, the applicant should also include information on how the project will eliminate unsafe grade crossings or contribute to preventing unintended releases of hazardous materials.

### (b) State of Good Repair

This section of the application should describe how the project will contribute to a state of good repair by improving the condition or resilience of existing transportation facilities and systems (described in Section E.1.i.(b) of this notice), including the project's current condition and how the proposed project will improve it, and any estimates of impacts on long-term cost structures or overall life-cycle costs. If the project will contribute to a state of good repair of transportation infrastructure that supports border security, the applicant should describe how.

### (c) Economic Competitiveness

This section of the application should describe how the project will support the Economic Competitiveness criterion (described in Section E.1.i.(c) of this notice). The applicant should include information about expected impacts of the project on the movement of goods and people, including how the project increases the efficiency of

movement and thereby reduces costs of doing business, improves local and regional freight connectivity to the national and global economy, reduces burdens of commuting, and improves overall well-being. The applicant should describe the extent to which the project contributes to the functioning and growth of the economy, including the extent to which the project addresses congestion or freight connectivity, bridges service gaps in rural areas, or promotes the expansion of private economic development including in Opportunity Zones.

#### (d) Environmental Sustainability

This section of the application should describe how the project addresses the environmental sustainability criterion (described in Section E.1.i.(d) of this notice). Applicants are encouraged to provide quantitative information, including baseline information that demonstrates how the project will reduce energy consumption, reduce stormwater runoff, or achieve other benefits for the environment such as brownfield redevelopment.

#### (e) Quality of Life

This section should describe how the project increases transportation choices for individuals, expands access to essential services for people in communities across the United States, improves connectivity for citizens to jobs, health care, and other critical destinations, particularly for rural communities, or otherwise addresses the quality of life criterion (described in Section E.1.i.(e) of this notice). If construction of the transportation project will allow concurrent installation of fiber or other broadband deployment as an essential service, the applicant should describe those activities and how



they support quality of life. Unless the concurrent activities support transportation, they will not be eligible for reimbursement.

## (2) Secondary Selection Criteria

### (a) Innovation

This section of the application should describe innovative strategies used and the anticipated benefits of using those strategies, including those corresponding to three categories (described in Section E.1.i.(f) of this notice): (i) Innovative Technologies, (ii) Innovative Project Delivery, or (iii) Innovative Financing.

#### (i) Innovative Technologies

If an applicant is proposing to adopt innovative safety approaches or technology, the application should demonstrate the applicant's capacity to implement those innovations, the applicant's understanding of applicable Federal requirements and whether the innovations may require extraordinary permitting, approvals, exemptions, waivers, or other procedural actions, and the effects of those innovations on the project delivery timeline.

If an applicant is proposing to deploy innovative traveler information systems or technologies as part of the surface transportation capital project, including work zone data exchanges or related data exchanges, the application should demonstrate the applicant's capacity to implement these innovations, the applicant's understanding of applicable data standards, and whether the proposed innovations will advance safety or other benefits during and after project completion.

If an applicant is proposing to deploy autonomous vehicles or other innovative motor vehicle technology, the application should demonstrate that all vehicles will

comply with applicable safety requirements, including those administered by the National Highway Traffic Safety Administration (NHTSA) and Federal Motor Carrier Safety Administration (FMCSA). Specifically, the application should show that vehicles acquired for the proposed project will comply with applicable Federal Motor Vehicle Safety Standards (FMVSS) and Federal Motor Carrier Safety Regulations (FMCSR). If the vehicles may not comply, the application should either (1) show that the vehicles and their proposed operations are within the scope of an exemption or waiver that has already been granted by NHTSA, FMCSA, or both agencies or (2) directly address whether the project will require exemptions or waivers from the FMVSS, FMCSR, or any other regulation and, if the project will require exemptions or waivers, present a plan for obtaining them.

(ii) Innovative Project Delivery

If an applicant plans to use innovative approaches to project delivery or is located in a State with NEPA delegation authority, applicants should describe those project delivery methods and how they are expected to improve the efficiency of the project development or expedite project delivery.

If an applicant is proposing to use SEP-14 or SEP-15 (as described in section E.1.i.(f) of this notice) the applicant should describe that proposal. The applicant should also provide sufficient information for evaluators to confirm that the applicant's proposal would meet the requirements of the specific experimental authority program.<sup>6</sup>

(iii) Innovative Financing

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<sup>6</sup> SEP-14 information is available at [https://www.fhwa.dot.gov/programadmin/contracts/sep\\_a.cfm](https://www.fhwa.dot.gov/programadmin/contracts/sep_a.cfm). SEP-15 information is available at [https://www.fhwa.dot.gov/ipd/p3/toolkit/usdot/sep15/implementation\\_procedure/](https://www.fhwa.dot.gov/ipd/p3/toolkit/usdot/sep15/implementation_procedure/)

If an applicant plans to incorporate innovative funding or financing, the applicant should describe the funding or financing approach, including a description of all activities undertaken to pursue private funding or financing for the project and the outcomes of those activities.

(b) Partnership

This section of the application should include information to assess the partnership criterion (described in Section E.1.i.(g) of this notice) including a list of all project parties and details about the proposed grant recipient and other public and private parties who are involved in delivering the project. This section should also describe efforts to collaborate among stakeholders, including with the private sector. Applications for projects involving other Federal agencies, or requiring action from other Federal agencies, should demonstrate commitment and involvement of those agencies. For example, projects involving border infrastructure should demonstrate evidence of concurrent investment from U.S. Customs and Border Patrol, U.S. Department of State, and other relevant Federal agencies; relevant port projects should demonstrate alignment with U.S. Army Corps of Engineers investment strategies.

v. Project Readiness

This section of the application should include information that, when considered with the project budget information presented elsewhere in the application, is sufficient for the Department to evaluate whether the project is reasonably expected to begin construction in a timely manner. To assist the Department's project readiness assessment, the applicant should provide the information requested on technical feasibility, project schedule, project approvals, and project risks, each of which is

described in greater detail in the following sections. Applicants are not required to follow the specific format described here, but this organization, which addresses each relevant aspect of project readiness, promotes a clear discussion that assists project evaluators. To minimize redundant information in the application, the Department encourages applicants to cross-reference from this section of their application to relevant substantive information in other sections of the application.

The guidance here is about what information applicants should provide and how the applicant should organize their application. Guidance describing how the Department will evaluate a project's readiness is described in Section E.1.ii of this notice. Applicants should review that section when considering how to organize their application.

(a) Technical Feasibility

The applicant should demonstrate the technical feasibility of the project with engineering and design studies and activities; the development of design criteria and/or a basis of design; the basis for the cost estimate presented in the BUILD application, including the identification of contingency levels appropriate to its level of design; and any scope, schedule, and budget risk-mitigation measures. Applicants should include a detailed statement of work that focuses on the technical and engineering aspects of the project and describes in detail the project to be constructed.

(b) Project Schedule

The applicant should include a detailed project schedule that identifies all major project milestones. Examples of such milestones include State and local planning approvals (e.g., programming on the Statewide Transportation Improvement Program); start and completion of NEPA and other Federal environmental reviews and approvals

including permitting; design completion; right of way acquisition; approval of plans, specifications and estimates; procurement; State and local approvals; project partnership and implementation agreements, including agreements with railroads; and construction.

The project schedule should be sufficiently detailed to demonstrate that:

(1) all necessary activities will be complete to allow BUILD Transportation grant funds to be obligated sufficiently in advance of the statutory deadline (September 30, 2021 for FY 2019 funds), and that any unexpected delays will not put the funds at risk of expiring before they are obligated;

(2) the project can begin construction quickly upon obligation of grant funds and that those funds will be spent expeditiously once construction starts, with all funds expended by September 30, 2026; and

(3) all real property and right-of-way acquisition will be completed in a timely manner in accordance with 49 CFR part 24, 23 CFR part 710, and other applicable legal requirements or a statement that no acquisition is necessary.

#### (c) Required Approvals

(1) Environmental Permits and Reviews. The application should demonstrate receipt (or reasonably anticipated receipt) of all environmental approvals and permits necessary for the project to proceed to construction on the timeline specified in the project schedule and necessary to meet the statutory obligation deadline, including satisfaction of all Federal, State and local requirements and completion of the NEPA process. Specifically, the application should include:

(a) Information about the NEPA status of the project. If the NEPA process is complete, an applicant should indicate the date of completion, and provide a

website link or other reference to the final Categorical Exclusion, Finding of No Significant Impact, Record of Decision, and any other NEPA documents prepared. If the NEPA process is underway, but not complete, the application should detail the type of NEPA review underway, where the project is in the process, and indicate the anticipated date of completion of all milestones and of the final NEPA determination. If the last agency action with respect to NEPA documents occurred more than three years before the application date, the applicant should describe why the project has been delayed and include a proposed approach for verifying and, if necessary, updating this material in accordance with applicable NEPA requirements.

(b) Information on reviews, approvals, and permits by other agencies.

An application should indicate whether the proposed project requires reviews or approval actions by other agencies<sup>7</sup>, indicate the status of such actions, and provide detailed information about the status of those reviews or approvals and should demonstrate compliance with any other applicable Federal, State or local requirements, and when such approvals are expected. Applicants should provide a website link or other reference to copies of any reviews, approvals, and permits prepared.

(c) Environmental studies or other documents, preferably through a website link, that describe in detail known project impacts, and possible mitigation for those impacts.

(d) A description of discussions with the appropriate DOT operating administration field or headquarters office regarding the project's compliance with NEPA and other applicable Federal environmental reviews and approvals.

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<sup>7</sup> Projects that may impact protected resources such as wetlands, species habitat, cultural or historic resources require review and approval by Federal and State agencies with jurisdiction over those resources.

(e) A description of public engagement about the project that has occurred, including details on the degree to which public comments and commitments have been integrated into project development and design.

(2) State and Local Approvals. The applicant should demonstrate receipt of State and local approvals on which the project depends, such as State and local environmental and planning approvals and Statewide Transportation Improvement Program (STIP) or (Transportation Improvement Program) TIP funding. Additional support from relevant State and local officials is not required; however, an applicant should demonstrate that the project has broad public support.

(3) Federal Transportation Requirements Affecting State and Local Planning. The planning requirements applicable to the relevant operating administration apply to all BUILD Transportation grant projects,<sup>8</sup> including intermodal projects located at airport facilities.<sup>9</sup> Applicants should demonstrate that a project that is required to be included in

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<sup>8</sup> Under 23 U.S.C. 134 and 135, all projects requiring an action by FHWA must be in the applicable plan and programming documents (e.g., metropolitan transportation plan, transportation improvement program (TIP) and statewide transportation improvement program (STIP)). Further, in air quality non-attainment and maintenance areas, all regionally significant projects, regardless of the funding source, must be included in the conforming metropolitan transportation plan and TIP. Inclusion in the STIP is required under certain circumstances. To the extent a project is required to be on a metropolitan transportation plan, TIP, and/or STIP, it will not receive a BUILD Transportation grant until it is included in such plans. Plans that do not currently include the awarded BUILD project can be amended by the State and MPO. Projects that are not required to be in long range transportation plans, STIPs, and TIPs will not need to be included in such plans in order to receive a BUILD Transportation grant. Port, freight rail, and intermodal projects are not required to be on the State Rail Plans called for in the Passenger Rail Investment and Improvement Act of 2008, or in a State Freight Plan as described in the FAST Act. However, applicants seeking funding for freight projects are encouraged to demonstrate that they have done sufficient planning to ensure that projects fit into a prioritized list of capital needs and are consistent with long-range goals. Means of demonstrating this consistency would include whether the project is in a TIP or a State Freight Plan that conforms to the requirements 49 U.S.C. 70202 prior to the start of construction. Port planning guidelines are available at [StrongPorts.gov](http://StrongPorts.gov).

<sup>9</sup> Projects at grant obligated airports must be compatible with the FAA-approved Airport Layout Plan, as well as aeronautical surfaces associated with the landing and takeoff of aircraft at the airport. Additionally, projects at an airport: must comply with established Sponsor Grant Assurances, including (but not limited to) requirements for non-exclusive use facilities, consultation with users, consistency with local plans including development of the area surrounding the airport, and consideration of the interest of nearby

the relevant State, metropolitan, and local planning documents has been or will be included in such documents. If the project is not included in a relevant planning document at the time the application is submitted, the applicant should submit a statement from the appropriate planning agency that actions are underway to include the project in the relevant planning document.

To the extent possible, freight projects should be included in a State Freight Plan and supported by a State Freight Advisory Committee (49 U.S.C. 70201, 70202), if these exist. Applicants should provide links or other documentation supporting this consideration.

Because projects have different schedules, the construction start date for each BUILD Transportation grant must be specified in the project-specific agreements signed by relevant operating administration and the grant recipients, based on critical path items that applicants identify in the application and will be consistent with relevant State and local plans.

#### (d) Assessment of Project Risks and Mitigation Strategies

Project risks, such as procurement delays, environmental uncertainties, increases in real estate acquisition costs, uncommitted local match, unavailability of vehicles that either comply with Federal Motor Vehicle Safety Standards or are exempt from Federal Motor Vehicle Safety Standards in a manner that allows for their legal acquisition and deployment, unavailability of domestically manufactured equipment, or lack of legislative approval, affect the likelihood of successful project start and completion. The applicant should identify all material risks to the project and the strategies that the lead

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communities, among others; and must not adversely affect the continued and unhindered access of passengers to the terminal.



applicant and any project partners have undertaken or will undertake in order to mitigate those risks. The applicant should assess the greatest risks to the project and identify how the project parties will mitigate those risks.

If an applicant anticipates pursuing a waiver for relevant domestic preference laws, the applicant should describe steps that have been or will be taken to maximize the use of domestic goods, products, and materials in constructing their project.

To the extent the applicant is unfamiliar with the Federal program, the applicant should contact the appropriate DOT operating administration field or headquarters offices, as found in contact information at [www.transportation.gov/BUILDgrants](http://www.transportation.gov/BUILDgrants), for information on the pre-requisite steps to obligate Federal funds in order to ensure that their project schedule is reasonable and that there are no risks of delays in satisfying Federal requirements.

BUILD Transportation planning grant applicants should describe their capacity to successfully implement the proposed activities in a timely manner.

#### **vi. Benefit Cost Analysis**

This section describes the recommended approach for the completion and submission of a benefit-cost analysis (BCA) as an appendix to the Project Narrative. The results of the analysis should be summarized in the Project Narrative directly, as described in Section D.2.

The appendix should provide present value estimates of a project's benefits and costs relative to a no-build baseline. To calculate present values, applicants should apply a real discount rate (i.e., the discount rate net of the inflation rate) of 7 percent per year to the project's streams of benefits and costs. The purpose of the BCA is to enable the

Department to evaluate the project's cost-effectiveness by estimating a benefit-cost ratio and calculating the magnitude of net benefits for the project.

The primary economic benefits from projects eligible for BUILD Transportation grants are likely to include savings in travel time costs, vehicle or terminal operating costs, and safety costs for both existing users of the improved facility and new users who may be attracted to it as a result of the project. Reduced damages from vehicle emissions and savings in maintenance costs to public agencies may also be quantified. Applicants may describe other categories of benefits in the BCA that are more difficult to quantify and value in economic terms, such as improving the reliability of travel times or improvements to the existing human and natural environments (such as increased connectivity, improved public health, storm water runoff mitigation, and noise reduction), while also providing numerical estimates of the magnitude and timing of each of these additional impacts wherever possible. Any benefits claimed for the project, both quantified and unquantified, should be clearly tied to the expected outcomes of the project.

The BCA should include the full costs of developing, constructing, operating, and maintaining the proposed project, as well as the expected timing or schedule for costs in each of these categories. The BCA may also consider the present discounted value of any remaining service life of the asset at the end of the analysis period. The costs and benefits that are compared in the BCA should also cover the same project scope.

The BCA should carefully document the assumptions and methodology used to produce the analysis, including a description of the baseline, the sources of data used to project the outcomes of the project, and the values of key input parameters. Applicants

should provide all relevant files used for their BCA, including any spreadsheet files and technical memos describing the analysis (whether created in-house or by a contractor). The spreadsheets and technical memos should present the calculations in sufficient detail and transparency to allow the analysis to be reproduced by DOT evaluators. Detailed guidance for estimating some types of quantitative benefits and costs, together with recommended economic values for converting them to dollar terms and discounting to their present values, are available in the Department's guidance for conducting BCAs for projects seeking funding under the BUILD Transportation grant program (see [www.transportation.gov/BUILDgrants/additional-guidance](http://www.transportation.gov/BUILDgrants/additional-guidance)).

### **3. Unique Entity Identifier and System for Award Management (SAM)**

Each applicant must: 1) be registered in SAM before submitting its application; 2) provide a valid unique entity identifier in its application; and 3) continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency. The Department may not make a BUILD Transportation grant to an applicant until the applicant has complied with all applicable unique entity identifier and SAM requirements and, if an applicant has not fully complied with the requirements by the time the Department is ready to make a BUILD Transportation grant, the Department may determine that the applicant is not qualified to receive a BUILD Transportation grant and use that determination as a basis for making a BUILD Transportation grant to another applicant.

#### **4. Submission Dates and Times**

##### **i. Deadline**

Applications must be submitted by 8:00 PM E.D.T. on July 15, 2019.

To submit an application through Grants.gov, applicants must:

- (1) Obtain a Data Universal Numbering System (DUNS) number;
- (2) Register with the System for Award Management (SAM) at [www.SAM.gov](http://www.SAM.gov);
- (3) Create a Grants.gov username and password; and
- (4) The E-Business Point of Contact (POC) at the applicant's organization must respond to the registration email from Grants.gov and login at Grants.gov to authorize the applicant as the Authorized Organization Representative (AOR). Please note that there can be more than one AOR for an organization.

Please note that the Grants.gov registration process usually takes 2-4 weeks to complete and that the Department will not consider late applications that are the result of failure to register or comply with Grants.gov applicant requirements in a timely manner. For information and instruction on each of these processes, please see instructions at <http://www.grants.gov/web/grants/applicants/applicant-faqs.html>. If applicants experience difficulties at any point during the registration or application process, please call the Grants.gov Customer Service Support Hotline at 1(800) 518-4726, Monday-Friday from 7:00 a.m. to 9:00 p.m. EST.

ii. Consideration of Applications:

Only applicants who comply with all submission deadlines described in this notice and electronically submit valid applications through Grants.gov will be eligible for award. Applicants are strongly encouraged to make submissions in advance of the deadline.

iii. Late Applications

Applicants experiencing technical issues with Grants.gov that are beyond the applicant's control must contact [BUILDgrants@dot.gov](mailto:BUILDgrants@dot.gov) prior to the application deadline with the user name of the registrant and details of the technical issue experienced. The applicant must provide:

- (1) Details of the technical issue experienced;
- (2) Screen capture(s) of the technical issues experienced along with corresponding Grants.gov "Grant tracking number;"
- (3) The "Legal Business Name" for the applicant that was provided in the SF-424;
- (4) The AOR name submitted in the SF-424;
- (5) The DUNS number associated with the application; and
- (6) The Grants.gov Help Desk Tracking Number.

To ensure a fair competition of limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) failure to complete the registration process before the deadline; (2) failure to follow Grants.gov instructions on how to register and apply as posted on its website; (3) failure to follow all instructions in this notice of funding opportunity; and (4) technical issues experienced with the

applicant's computer or information technology environment. After the Department reviews all information submitted and contact the Grants.gov Help Desk to validate reported technical issues, DOT staff will contact late applicants to approve or deny a request to submit a late application through Grants.gov. If the reported technical issues cannot be validated, late applications will be rejected as untimely.

## **E. Application Review Information**

### **1. Criteria**

This section specifies the criteria that DOT will use to evaluate and award applications for BUILD Transportation grants. The criteria incorporate the statutory eligibility requirements for this program, which are specified in this notice as relevant. Projects will also be evaluated for demonstrated project readiness and benefits and costs.

#### **i. Primary Selection Criteria:**

Applications that do not demonstrate a potential for moderate long-term benefits based on these criteria will not proceed in the evaluation process. DOT does not consider any selection criterion more important than the others. BUILD Transportation planning grant applications will be evaluated against the same criteria as capital grant applications. While the FY 2019 Appropriations Act allows funding solely for pre-construction activities, the Department will prioritize FY 2019 BUILD Transportation grant program funding for projects that propose to move into the construction phase within the period of obligation. Accordingly, applications for BUILD Transportation planning grants will be less competitive than capital grants.

The selection criteria, which will receive equal consideration, are:

(a) Safety

The Department will assess the project's ability to foster a safe transportation system for the movement of goods and people. The Department will consider the projected impacts on the number, rate, and consequences of crashes, fatalities and injuries among transportation users; the project's contribution to the elimination of highway/rail grade crossings, or the project's contribution to preventing unintended releases of hazardous materials.

(b) State of Good Repair

The Department will assess whether and to what extent: (1) the project is consistent with relevant plans to maintain transportation facilities or systems in a state of good repair and address current and projected vulnerabilities; (2) if left unimproved, the poor condition of the asset will threaten future transportation network efficiency, mobility of goods or accessibility and mobility of people, or economic growth; (3) the project is appropriately capitalized up front and uses asset management approaches that optimize its long-term cost structure; (4) a sustainable source of revenue is available for operations and maintenance of the project and the project will reduce overall life-cycle costs; (5) the project will maintain or improve transportation infrastructure that supports border security functions; and (6) the project includes a plan to maintain the transportation infrastructure in a state of good repair. The Department will prioritize projects that ensure the good condition of transportation infrastructure, including rural transportation infrastructure, that support commerce and economic growth.

### (c) Economic Competitiveness

The Department will assess whether the project will (1) decrease transportation costs and improve access, especially for rural communities or communities in Opportunity Zones<sup>10</sup>, through reliable and timely access to employment centers and job opportunities; (2) improve long-term efficiency, reliability or costs in the movement of workers or goods; (3) increase the economic productivity of land, capital, or labor, including assets in Opportunity Zones; (4) result in long-term job creation and other economic opportunities; or (5) help the United States compete in a global economy by facilitating efficient and reliable freight movement.

Projects that address congestion in major urban areas, particularly those that do so through the use of congestion pricing or the deployment of advanced technology, projects that bridge gaps in service in rural areas, and projects that attract private economic development, all support local or regional economic competitiveness.

### (d) Environmental Sustainability

The Department will consider the extent to which the project improves energy efficiency, reduces dependence on oil, reduces congestion-related emissions, improves water quality, avoids and mitigates environmental impacts and otherwise benefits the environment, including through alternative right of way uses demonstrating innovative ways to improve or streamline environmental reviews while maintaining the same outcomes. The Department will assess the project's ability to: (i) reduce energy use and air or water pollution through congestion mitigation strategies; (ii) avoid adverse environmental impacts to air or water quality, wetlands, and endangered species; or (iii)

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<sup>10</sup> See <https://www.cdfifund.gov/Pages/Opportunity-Zones.aspx> for more information on Opportunity Zones



provide environmental benefits, such as brownfield redevelopment, ground water recharge in areas of water scarcity, wetlands creation or improved habitat connectivity, and stormwater mitigation.

(e) Quality of Life

The Department will consider the extent to which the project: (i) increases transportation choices for individuals to provide more freedom on transportation decisions; (ii) expands access to essential services for communities across the United States, particularly for rural communities; or (iii) improves connectivity for citizens to jobs, health care, and other critical destinations, particularly for rural communities. Americans living in rural areas and on Tribal lands continue to disproportionately lack access and connectivity, and the Department will consider whether and the extent to which the construction of the transportation project will allow concurrent installation of fiber or other broadband deployment as an essential service.

ii. Secondary Selection Criteria

(a) Innovation

The Department will assess the extent to which the applicant uses innovative strategies, including: (i) innovative technologies, (ii) innovative project delivery, or (iii) innovative financing.

(i) Innovative Technologies

DOT will assess innovative approaches to transportation safety, particularly in relation to automated vehicles and the detection, mitigation, and documentation of safety risks. When making BUILD Transportation grant award decisions, the Department will consider any innovative safety approaches proposed by the applicant, particularly

projects which incorporate innovative design solutions, enhance the environment for automated vehicles, or use technology to improve the detection, mitigation, and documentation of safety risks. Innovative safety approaches may include, but are not limited to:

- Conflict detection and mitigation technologies (e.g., intersection alerts and signal prioritization);
- Dynamic signaling, smart traffic signals, or pricing systems to reduce congestion;
- Traveler information systems, to include work zone data exchanges;
- Signage and design features that facilitate autonomous or semi-autonomous vehicle technologies;
- Applications to automatically capture and report safety-related issues (e.g., identifying and documenting near-miss incidents); and
- Cybersecurity elements to protect safety-critical systems.

For innovative safety proposals, the Department will evaluate safety benefits that those approaches could produce and the broader applicability of the potential results. DOT will also assess the extent to which the project uses innovative technology that supports surface transportation to significantly enhance the operational performance of the transportation system.

Innovative technologies include: broadband deployment and the installation of high-speed networks concurrent with the project construction; connecting Intelligent Transportation System (ITS) infrastructure; and providing direct fiber connections that support surface transportation to public and private entities, which can provide a platform

and catalyst for growth of rural communities. The Department will consider whether and the extent to which the construction of the transportation project will allow concurrent broadband deployment and the installation of high-speed networks.

(ii) Innovative Project Delivery

DOT will consider the extent to which the project utilizes innovative practices in contracting (such as public-private partnerships), congestion management, asset management, or long-term operations and maintenance.

The Department also seeks projects that employ innovative approaches to improve the efficiency and effectiveness of the environmental permitting and review to accelerate project delivery and achieve improved outcomes for communities and the environment. The Department's objective is to achieve timely and consistent environmental review and permit decisions. Accordingly, projects from States with NEPA assignment authority under 23 U.S.C. 327 are considered to use an innovative approach to project delivery. Participation in innovative project delivery approaches will not remove any statutory requirements affecting project delivery.

While BUILD Transportation grant award recipients are not required to employ innovative approaches, the Department encourages BUILD Transportation grant applicants to describe innovative project delivery methods for proposed projects.

Additionally, DOT is interested in projects that apply innovative strategies to improve the efficiency of project development or expedite project delivery by using FHWA's Special Experimental Project No. 14 (SEP-14) and Special Experimental Project No. 15 (SEP-15). Under SEP-14 and SEP-15, FHWA may waive statutory and regulatory requirements under title 23 on a project-by-project basis to explore innovative

processes that could be adopted through legislation. This experimental authority is available to test changes that would improve the efficiency of project delivery in a manner that is consistent with the purposes underlying existing requirements; it is not available to frustrate the purposes of existing requirements.

When making BUILD Transportation grant award decisions, the Department will consider the applicant's proposals to use SEP-14 or SEP-15, whether the proposals are consistent with the objectives and requirements of those programs, the potential benefits that experimental authorities or waivers might provide to the project, and the broader applicability of potential results. The Department is not replacing the application processes for SEP-14 or SEP-15 with this notice or the BUILD Transportation grant program application. Instead, it seeks detailed expressions of interest in those programs. If selected for an BUILD Transportation grant award, the applicant would need to satisfy the relevant programs' requirements and complete the appropriate application processes. Selection for a BUILD Transportation grant award does not mean a project's SEP-14 or SEP-15 proposal has been approved. The Department will make a separate determination in accordance with those programs' processes on the appropriateness of a waiver.

(iii) Innovative Financing

DOT will assess the extent to which the project incorporates innovations in transportation funding and finance through both traditional and innovative means, including by using private sector funding or financing and recycled revenue from the competitive sale or lease of publicly owned or operated assets.

## (b) Partnership

The Department will consider the extent to which projects demonstrate strong collaboration among a broad range of stakeholders. Projects with strong partnership typically involve multiple partners in project development and funding, such as State and local governments, other public entities, and private or nonprofit entities. DOT will consider applicants that partner with State, local, or private entities for the completion and operation of transportation infrastructure to have strong partnership. DOT will also assess the extent to which the project application demonstrates collaboration among neighboring or regional jurisdictions to achieve local or regional benefits. In the context of public-private partnerships, DOT will assess the extent to which partners are encouraged to ensure long-term asset performance, such as through pay-for-success approaches.

DOT will also consider the extent to which projects include partnerships that bring together diverse transportation agencies or are supported, financially or otherwise, by other stakeholders that are pursuing similar objectives. For example, DOT will consider the extent to which transportation projects are coordinated with economic development, housing, water and waste infrastructure, power and electric infrastructure, broadband and land use plans and policies or other public service efforts.

### ii. Demonstrated Project Readiness

During application evaluation, the Department may consider project readiness to assess the likelihood of a successful project. In that analysis, the Department will consider significant risks to successful completion of a project, including risks associated with environmental review, permitting, technical feasibility, funding, and the applicant's

capacity to manage project delivery. Risks do not disqualify projects from award, but competitive applications clearly and directly describe achievable risk mitigation strategies. A project with mitigated risks or with a risk mitigation plan is more competitive than a comparable project with unaddressed risks.

### iii. Project Costs and Benefits

The Department may consider the costs and benefits of projects seeking BUILD Transportation grant funding. To the extent possible, the Department will rely on quantitative, data-supported analysis to assess how well a project addresses this criterion, including an assessment of the project's estimated benefit-cost ratio and net quantifiable benefits based on the applicant-supplied BCA described in Section D.2.vi.

### iv. Additional Considerations

The FY 2019 Appropriations Act requires the Department to consider contributions to geographic diversity among recipients, including the need for a balance between the needs of rural and urban communities when selecting BUILD Transportation grant awards.

## **2. Review and Selection Process**

DOT reviews all eligible applications received by the deadline. The BUILD Transportation grants review and selection process consists of at least Technical Review and Senior Review. In the Technical Review, teams comprising staff from the Office of the Secretary (OST) and operating administrations review all eligible applications and rate projects based on how well the projects align with the selection criteria. The Senior Review Team, which includes senior leadership from OST and the operating administrations, determines which projects to advance to the Secretary as Highly Rated.

The FY 2019 Appropriations Act mandated BUILD Transportation grant awards by November 12, 2019. The Secretary selects from the Highly Rated projects for final awards.

### **3. Additional Information**

Prior to award, each selected applicant will be subject to a risk assessment as required by 2 CFR § 200.205. The Department must review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)). An applicant may review information in FAPIIS and comment on any information about itself. The Department will consider comments by the applicant, in addition to the other information in FAPIIS, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants.

## **F. Federal Award Administration Information**

### **1. Federal Award Notice**

Following the evaluation outlined in Section E, the Secretary will announce awarded projects by posting a list of selected projects at [www.transportation.gov/BUILDgrants](http://www.transportation.gov/BUILDgrants). Notice of selection is not authorization to begin performance. Following that announcement, the relevant operating administration will contact the point of contact listed in the SF 424 to initiate negotiation of the grant agreement for authorization.

### **2. Administrative and National Policy Requirements**

All awards will be administered pursuant to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards found in 2

C.F.R part 200, as adopted by DOT at 2 C.F.R part 1201. Federal wage rate requirements included in subchapter IV of chapter 31 of title 40, U.S.C., apply to all projects receiving funds under this program, and apply to all parts of the project, whether funded with BUILD Transportation Grant funds, other Federal funds, or non-Federal funds.

In connection with any program or activity conducted with or benefiting from funds awarded under this notice, recipients of funds must comply with all applicable requirements of Federal law, including, without limitation, the Constitution of the United States; the conditions of performance, non-discrimination requirements, and other assurances made applicable to the award of funds in accordance with regulations of the Department of Transportation; and applicable Federal financial assistance and contracting principles promulgated by the Office of Management and Budget. In complying with these requirements, recipients, in particular, must ensure that no concession agreements are denied or other contracting decisions made on the basis of speech or other activities protected by the First Amendment. If the Department determines that a recipient has failed to comply with applicable Federal requirements, the Department may terminate the award of funds and disallow previously incurred costs, requiring the recipient to reimburse any expended award funds.

Additionally, applicable Federal laws, rules and regulations of the relevant operating administration administering the project will apply to the projects that receive BUILD Transportation grant awards, including planning requirements, Service Outcome Agreements, Stakeholder Agreements, Buy America compliance, and other requirements under DOT's other highway, transit, rail, and port grant programs. In particular, Executive Order 13858 directs the Executive Branch Departments and agencies to



maximize the use of goods, products, and materials produced in the United States through the terms and conditions of Federal financial assistance awards. If selected for an award, grantees must be prepared to demonstrate how they will maximize the use of domestic goods, products, and materials in constructing their project. BUILD Transportation grant projects involving vehicle acquisition must involve only vehicles that comply with applicable Federal Motor Vehicle Safety Standards and Federal Motor Vehicle Safety Regulations, or vehicles that are exempt from Federal Motor Carrier Safety Standards or Federal Motor Carrier Safety Regulations in a manner that allows for the legal acquisition and deployment of the vehicle or vehicles.

For projects administered by FHWA, applicable Federal laws, rules, and regulations set forth in Title 23 U.S.C. and Title 23 C.F.R apply, including the 23 U.S.C. 129 restrictions on the use of toll revenues, and Section 4(f) preservation of parklands and historic properties requirements under 23 U.S.C. 138. For an illustrative list of the other applicable laws, rules, regulations, executive orders, polices, guidelines, and requirements as they relate to a BUILD Transportation grant project administered by the FHWA, please see

[https://ops.fhwa.dot.gov/Freight/infrastructure/tiger/fy2016\\_gr\\_exhbt/index.htm](https://ops.fhwa.dot.gov/Freight/infrastructure/tiger/fy2016_gr_exhbt/index.htm)

For BUILD Transportation projects administered by the Federal Transit Administration and partially funded with Federal transit assistance, all relevant requirements under chapter 53 of title 49 U.S.C. apply. For transit projects funded exclusively with BUILD Transportation grant funds, some requirements of chapter 53 of title 49 U.S.C. and chapter VI of title 49 C.F.R. apply.

For projects administered by the Federal Railroad Administration, FRA requirements described in 49 U.S.C. Subtitle V, Part C apply.

For each project that receives a BUILD Transportation grant award, the terms of the award will require the recipient to complete the project using at least the level of non-Federal funding that was specified in the application. If the actual costs of the project are greater than the costs estimated in the application, the recipient will be responsible for increasing the non-Federal contribution. If the actual costs of the project are less than the costs estimated in the application, DOT will generally reduce the Federal contribution.

### **3. Reporting**

#### **i. Progress Reporting on Grant Activities**

Each applicant selected for BUILD Transportation grant funding must submit quarterly progress reports and Federal Financial Reports (SF-425) to monitor project progress and ensure accountability and financial transparency in the BUILD Transportation grant program.

#### **ii. System Performance Reporting**

Each applicant selected for BUILD Transportation grant funding must collect and report to the DOT information on the project's performance. The specific performance information and reporting time period will be determined on a project-by-project basis. Performance indicators will not include formal goals or targets, but will include observed measures under baseline (pre-project) as well as post-implementation outcomes, and will be used to evaluate and compare projects and monitor the results that grant funds achieve to the intended long-term outcomes of the BUILD Transportation grant program are achieved. To the extent possible, performance indicators used in the reporting should

align with the measures included in the application and should relate to at least one of the selection criteria defined in Section E. Performance reporting continues for several years after project construction is completed, and DOT does not provide BUILD Transportation grant funding specifically for performance reporting.

iii. Reporting of Matters Related to Recipient Integrity and  
Performance

If the total value of a selected applicant's currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then the applicant during that period of time must maintain the currency of information reported to the SAM that is made available in the designated integrity and performance system (currently FAPIIS) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

**G. Federal Awarding Agency Contacts**

For further information concerning this notice please contact the BUILD Transportation grant program staff via e-mail at [BUILDgrants@dot.gov](mailto:BUILDgrants@dot.gov), or call Howard Hill at 202-366-0301. A TDD is available for individuals who are deaf or hard of hearing at 202-366-3993. In addition, DOT will post answers to questions and requests for

clarifications on DOT's website at [www.transportation.gov/BUILDgrants](http://www.transportation.gov/BUILDgrants). To ensure applicants receive accurate information about eligibility or the program, the applicant is encouraged to contact DOT directly, rather than through intermediaries or third parties, with questions. DOT staff may also conduct briefings on the BUILD Transportation grant selection and award process upon request.

## **H. Other information**

### **1. Protection of Confidential Business Information**

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the applicant submits information that the applicant considers to be a trade secret or confidential commercial or financial information, the applicant must provide that information in a separate document, which the applicant may cross-reference from the application narrative or other portions of the application. For the separate document containing confidential information, the applicant must do the following: (1) state on the cover of that document that it "Contains Confidential Business Information (CBI)"; (2) mark each page that contains confidential information with "CBI"; (3) highlight or otherwise denote the confidential content on each page; and (4) at the end of the document, explain how disclosure of the confidential information would cause substantial competitive harm. DOT will protect confidential information complying with these requirements to the extent required under applicable law. If DOT receives a Freedom of Information Act (FOIA) request for the information that the applicant has marked in accordance with this section, DOT will follow the procedures described in its FOIA regulations at 49 C.F.R. §

7.29. Only information that is in the separate document, marked in accordance with this section, and ultimately determined to be confidential under § 7.29 will be exempt from disclosure under FOIA.

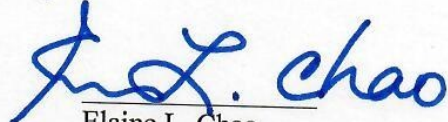
## **2. Publication/Sharing of Application Information**

Following the completion of the selection process and announcement of awards, the Department intends to publish a list of all applications received along with the names of the applicant organizations and funding amounts requested. Except for the information properly marked as described in Section H.1., the Department may make application narratives publicly available or share application information within the Department or with other Federal agencies if the Department determines that sharing is relevant to the respective program's objectives.

## **3. Department Feedback on Applications**

The Department strives to provide as much information as possible to assist applicants with the application process. The Department will not review applications in advance, but Department staff are available for technical questions and assistance. To efficiently use Department resources, the Department will prioritize interactions with applicants who have not already received a debrief on their FY 2018 BUILD Transportation grant application. Program staff will address questions to [BUILDgrants@dot.gov](mailto:BUILDgrants@dot.gov) throughout the application period. Department staff will make reasonable efforts to schedule meetings on projects through May 31, 2019. After that date, Department staff will schedule meetings only to the extent possible and consistent with timely completion of other activities.

Issued On: 4-16-19



Elaine L. Chao  
Secretary