

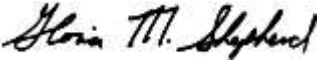


U.S. Department  
of Transportation  
**Federal Highway  
Administration**

# Memorandum

Subject: **INFORMATION:** Carbon Reduction Program  
(CRP) Implementation Guidance

Date: April 21, 2022

From: Gloria M. Shepherd   
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Environment, and Realty

In Reply Refer To:  
HEP-1

To: Division Administrators  
Directors of Field Services

On November 15, 2021, the President signed the Infrastructure Investment and Jobs Act (IIJA) (Public Law 117-58, also known as the “Bipartisan Infrastructure Law”) (BIL) into law. The BIL authorizes a new Carbon Reduction Program codified at 23 United States Code (U.S.C.) 175 to reduce transportation emissions. The attached Carbon Reduction Program (CRP) Implementation Guidance provides information on funding, eligible activities, and requirements of the CRP.

Except for the statutes and regulations cited, the contents of this document do not have the force and effect of law and are not meant to bind the States or the public in any way. This document is intended only to provide information regarding existing requirements under the law or agency policies.

This document will be accessible on the Sustainability Website ([FHWA Sustainability Website](#)), the BIL Website ([FHWA Bipartisan Infrastructure Law Website](#)), and through the Policy and Guidance Center ([FHWA Policy and Guidance Center](#)).

If you have questions, please contact: Becky Lupes (202-366-7808 or [Rebecca.Lupes@dot.gov](mailto:Rebecca.Lupes@dot.gov)) or John Davies (202-366-6039 or [JohnG.Davies@dot.gov](mailto:JohnG.Davies@dot.gov)) of the Office of Natural Environment.

Attachment

**Carbon Reduction Program Implementation Guidance**  
(April 21, 2022)

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## A. Definitions

In this guidance, the following definitions apply:

*Consultation* means that one or more parties confer with other identified parties in accordance with an established process and, prior to taking action(s), considers the views of the other parties and periodically informs them about action(s) taken (*See* 23 CFR 450.104).

*Coordination* means the cooperative development of plans, programs, and schedules among agencies and entities with legal standing and adjustment of such plans, programs, and schedules to achieve general consistency, as appropriate (23 CFR 450.104).

*Metropolitan Planning Organization* means the policy board of an organization established as a result of the designation process under 23 U.S.C. 134(d) (23 U.S.C. 134(b)(2); 23 U.S.C. 175(a)(1)).

*Transportation Emissions* means carbon dioxide emissions from on-road highway sources of those emissions within a State (23 U.S.C. 175(a)(2)).

*Transportation Management Area* means a transportation management area identified or designated by the Secretary under 23 U.S.C. 134(k)(1) (*See* 23 U.S.C. 175(a)(3)).

*Urbanized Area* means a geographic area with a population of 50,000 or more, as determined by the Bureau of the Census (23 U.S.C. 134(b)(7); 23 U.S.C. 175(a)(1)).

## B. PROGRAM PURPOSE

The purpose of the Carbon Reduction Program (CRP) is to reduce transportation emissions through the development of State carbon reduction strategies and by funding projects designed to reduce transportation emissions (*See* 23 U.S.C. 175 as established by the Infrastructure Investment and Jobs Act (IIJA) (Public Law 117-58, also known as the “[Bipartisan Infrastructure Law](#)” (BIL)) (BIL § 11403).

## C. GUIDANCE ON ADMINISTRATION PRIORITIES AND USE OF THE FEDERAL-AID HIGHWAY FORMULA FUNDING

1. **Overview:** This document provides background and guidance to clarify eligibility requirements for the CRP. On December 16, 2021, FHWA issued guidance, [Policy on Using Bipartisan Infrastructure Law Resources to Build a Better America](#), that serves as an overarching framework to prioritize the use of BIL resources on projects that will Build a Better America. That policy is available on FHWA’s BIL resources implementation website at the following URL: [https://www.fhwa.dot.gov/bipartisan-infrastructure-law/building\\_a\\_better\\_america-policy\\_framework.cfm](https://www.fhwa.dot.gov/bipartisan-infrastructure-law/building_a_better_america-policy_framework.cfm).

## 2. Safety:

### **Prioritizing Safety in All Investments and Projects**

The National Roadway Safety Strategy (NRSS) (issued January 27, 2022) commits the United States Department of Transportation (USDOT) and FHWA to respond to the current crisis in traffic fatalities by “taking substantial, comprehensive action to significantly reduce serious and fatal injuries on the Nation’s roadways,” in pursuit of the goal of achieving zero highway deaths. FHWA recognizes that zero is the only acceptable number of deaths on our roads and achieving that is our safety goal. FHWA therefore encourages States and other funding recipients to prioritize safety in all Federal highway investments and in all appropriate projects, using relevant Federal-aid funding, including funds from CRP.

The Safe System approach addresses the safety of all road users, including those who walk, bike, drive, ride transit, and travel by other modes. It involves a paradigm shift to improve safety culture, increase collaboration across all safety stakeholders, and refocus transportation system design and operation on anticipating human mistakes and lessening impact forces to reduce crash severity and save lives. To achieve the vision of zero fatalities, safety should be fully reflected in a State’s transportation investment decisions, from planning and programming, environmental analysis, project design, and construction, to maintenance and operations. States should use data-driven safety analyses to ensure that safety is a key input in any decision made in the project development process and fully consider the safety of all road users in project development.

FHWA encourages State and local agencies to consider the use of funds from CRP to address roadway safety and implement the Safe System approach wherever possible. Improvements to safety features, including traffic signs, pavement markings, and multimodal accommodations that are routinely provided as part of a broader Federal-aid highway project can and should be funded from the same source as the broader project as long as the use is eligible under that funding source.

Because of the role of speed in fatal crashes, FHWA is also providing new resources on the setting of speed limits and on re-engineering roadways to help “self-enforce” speed limits. To achieve the vision of zero fatalities on the Nation’s roads, FHWA encourages States to assess safety outcomes for all project types and promote and improve safety for all road users, particularly vulnerable users. FHWA recommends that streets be designed and operated to maximize the existing right-of-way for accommodation of nonmotorized modes and transit options that increase safety and connectivity. Pedestrian facilities in the public right-of-way must comply with the Americans with Disabilities Act.

### **Complete Streets**

As one approach to ensuring the safety of all roadway users, FHWA encourages States and communities to adopt and implement Complete Streets policies that prioritize the safety of all users in transportation network planning, design, construction and operations. Section 11206 of the BIL defines Complete Streets standards or policies as

those which “ensure the safe and adequate accommodation of all users of the transportation system, including pedestrians, bicyclists, public transportation users, children, older individuals, individuals with disabilities, motorists, and freight vehicles.” A complete street includes, but is not limited to, sidewalks, bike lanes (or wide paved shoulders), special bus lanes, accessible public transportation stops, safe and accommodating crossing options, median islands, pedestrian signals, curb extensions, narrower travel lanes, and roundabouts. A Complete Street is safe, and feels safe, for everyone using the street.

3. **Transit Flex:** FHWA, working with FTA, seeks to help Federal-aid recipients plan, develop, and implement infrastructure investments that prioritize safety, mobility, and accessibility for all transportation network users, including pedestrians, bicyclists, transit riders, micromobility users, freight and delivery services providers, and motorists. This includes the incorporation of data sharing principles and data management.

Funds from CRP can be “flexed” to FTA to fund transit projects. For title 23 funds that are flexed to FTA, section 104(f) of title 23, U.S.C., allows funds made available for transit projects or transportation planning to be transferred to FTA and administered in accordance with chapter 53 of title 49, U.S.C., except that the Federal share requirements of the original fund category continue to apply (See 23 U.S.C. 104(f)(1)).

The use of Federal-aid funding on transit and transit-related projects can provide an equitable and safe transportation network for travelers of all ages and abilities, including those from marginalized communities facing historic disinvestment. FHWA encourages recipients to consider using funding flexibility for transit or multimodal-related projects and to consider strategies that: (1) improve infrastructure for nonmotorized travel, public transportation access, and increased public transportation service in underserved communities; (2) plan for the safety of all road users, particularly those on arterials, through infrastructure improvements and advanced speed management; (3) reduce single-occupancy vehicle travel and associated air pollution in communities near high-volume corridors; (4) offer reduced public transportation fares as appropriate; (5) target demand-response service towards communities with higher concentrations of older adults and those with poor access to essential services; and (6) use equitable and sustainable practices while developing transit-oriented development.

4. **Transferability Between FHWA Programs:** Section 126 of title 23, U.S.C., provides that a State may transfer up to 50 percent of the amount apportioned for the fiscal year for certain highway programs, including CRP, to other eligible apportioned highway programs.<sup>1</sup> See also FHWA Order 4551.1, “Fund Transfers to Other Agencies and Among Title 23 Programs”, ([Fund Transfers to Other Agencies and Among Title 23 Programs](#)). Historically States have used this flexibility to address unmet needs in areas where apportioned funding was insufficient.

The BIL made historic investments in highway programs including more than \$300 billion in Contract Authority from the Highway Trust Fund. This represents an average

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<sup>1</sup> States may only transfer CRP funds that are allocated for use anywhere in the State.

annual increase of 29 percent in Federal-aid funding over the amount of Contract Authority for FHWA programs compared to fiscal year 2021. Congress also established more than a dozen new highway programs to help address urgent surface transportation needs.

States have the flexibility to transfer funds out of CRP to other apportioned programs, but we encourage States to first consider the need to transfer in light of the significant increase in apportioned funding and the considerable funding for new programs. States, working with FHWA, should determine the need for CRP funds – including the ability to apply CRP funds to eligible assets owned by local governments, counties, and Tribes – and identify and prioritize projects that maximize the CRP funding before deciding to transfer funds out of the CRP.

5. **ADA:** The Americans with Disabilities Act (ADA) of 1990 and Section 504 of the Rehabilitation Act of 1973 prohibit discrimination against people with disabilities and ensure equal opportunity and access for persons with disabilities. The Department of Transportation’s Section 504 regulations apply to recipients of the Department’s financial assistance (*See* 49 CFR 27.3(a)). Title II of the ADA applies to public entities regardless of whether they receive Federal financial assistance (*See* 28 CFR 35.102(a)). The ADA requires that no qualified individual with a disability shall, because a public entity’s facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity (*See* 28 CFR 35.149). A public entity’s pedestrian facilities are considered a “service, program, or activity” of the public entity. As a result, public entities and recipients of Federal financial assistance are required to ensure the accessibility of pedestrian facilities in the public right-of-way, such as curb ramps, sidewalks, crosswalks, pedestrian signals, and transit stops in accordance with applicable regulations.

If the project reduces transportation emissions, funds from CRP are available to improve accessibility and to implement recipients’ ADA transition plans and upgrade their facilities to eliminate physical obstacles and provide for accessibility for individuals with disabilities. FHWA will provide oversight to recipients of CRP funds to ensure that each public agency's project planning, design, and construction programs comply with ADA and Section 504 accessibility requirements.

6. **Equity:** The BIL provides considerable resources to help States and other funding recipients advance projects that consider the unique circumstances affecting community members’ mobility needs and allocate resources consistently with those needs, enabling the transportation network to effectively serve all community members. FHWA will work with States to ensure consideration of using CRP funds for projects and inclusion of project elements that proactively address racial equity, workforce development, economic development, and remove barriers to opportunity, including automobile dependence in both rural and urban communities as a barrier to opportunity or to redress prior inequities and barriers to opportunity.

Federal-aid recipients, including recipients of CRP funds, are responsible for involving the public, including traditionally underserved and underrepresented populations in transportation planning and complying with participation and consultation requirements in 23 CFR 450.210 and 23 CFR 450.316, as applicable. “Underserved populations” include minority and low-income populations but may also include many other demographic categories that face challenges engaging with the transportation process and receiving equitable benefits (See [FHWA's Environmental Justice Reference Guide](#) for additional information). In addition, CRP projects can support the Justice40 Initiative, which establishes a goal that at least 40 percent of the benefits of federal investments in climate and clean energy infrastructure are distributed to disadvantaged communities. (See [OMB's Interim Implementation Guidance for the Justice40 Initiative](#) or its successor for additional information).

To assist with these public engagement efforts, FHWA expects recipients of CRP funds to engage with all impacted communities and community leaders to determine which forms of communication are most effective. Recipients should gain insight on the unique circumstances impacting various disadvantaged and underrepresented groups so that new channels for communication may be developed. And, the recipients should use this information to inform decisions across all aspects of project delivery including planning, project selection, and the design process.

Among other things, recipients of CRP funds are also required to assure equitable treatment of workers and trainees on highway projects through compliance with Equal Employment Opportunity requirements under 23 CFR Part 230, Subpart A, as well as ensuring nondiscrimination in all of their operations on the basis of race, color, or national origin under Title VI of the Civil Rights Act of 1964. Recipients of CRP funds should ensure that they have the capacity and expertise to address Federal civil rights protections that accompany grant awards.

7. **Climate Change and Sustainability:** The United States is committed to a whole-of-government approach to reducing economy-wide net greenhouse gas pollution by 2030. The BIL provides considerable resources—including new programs and funding—to help States and other funding recipients advance this goal in the transportation sector. In addition, the BIL makes historic investments to improve the resilience of transportation infrastructure, helping States and communities prepare for hazards such as wildfires, floods, storms, and droughts exacerbated by climate change.

FHWA encourages the advancement of projects that address climate change and sustainability. To enable this, FHWA encourages recipients to consider climate change and sustainability throughout the planning and project development process, including the extent to which projects under CRP align with the President’s greenhouse gas reduction, climate resilience, and environmental justice commitments. In particular, consistent with the statute and guidance below, recipients should fund projects that reduce carbon dioxide emissions. FHWA encourages recipients to fund projects that support fiscally responsible land use and transportation efficient design, or incorporate electrification or zero emission vehicle infrastructure. In addition, FHWA encourages

recipients to consider projects under CRP that support climate change resilience, including consideration of the risks associated with wildfires, drought, extreme heat, and flooding, in line with guidance for projects in floodplains. FHWA also encourages recipients to consider projects under CRP that address environmental justice concerns.

8. **Labor and Workforce:** Highway programs, including CRP, may provide opportunities to support the creation of good-paying jobs, including jobs with the free and fair choice to join a union, and the incorporation of strong labor standards, such as the use of project labor agreements; employer neutrality with respect to union organizing; the use of an appropriately trained workforce (in particular registered apprenticeships and other joint labor-management training programs); and the use of an appropriately credentialed workforce in project planning stages and program delivery.

Recipients should work with FHWA, to the extent possible, to identify opportunities for Federal-aid highway investments to advance high-quality job creation through the use of local or other geographic or economic hire provisions authorized under section 25019 in the BIL, and Indian employment preference for projects that are located on or near Tribal reservations authorized under 23 U.S.C. 140(d), or other workforce strategies targeted at expanding workforce training opportunities for people to get the skills they need to compete for these jobs, especially underrepresented populations: women, people of color, and groups with other systemic barriers to employment (people with disabilities, formerly incarcerated, etc.).

9. **Truck Parking:** Truck parking shortages are a national concern affecting the efficiency of U.S. supply chains and safety for truck drivers and other roadway users. Jason's Law, which was passed in 2012, established a national priority on addressing the shortage of long-term parking for commercial motor vehicles on the National Highway System (NHS).

Many Federal-aid highway funding programs have eligibility for truck parking projects, including the CRP. CRP funds may be obligated for a project on an eligible facility that reduces transportation emissions. FHWA anticipates that such projects may support progress toward the achievement of national performance goals for improving infrastructure condition, safety, congestion reduction, system reliability, or freight movement on the NHS. Advanced truck stop electrification systems are eligible under 23 U.S.C. 175(c)(1)(A) and projects that reduce transportation emissions at port facilities are eligible under 23 U.S.C. 175(c)(1)(M).

States should consider working with private sector truck stop operators and the trucking community in the siting and development of specific truck parking projects. States also are encouraged to offer opportunities for input from commercial motor vehicle drivers and truck stop operators through their State Freight Advisory Committees established under 49 U.S.C. 70201.

## D. GOVERNING AUTHORITIES

1. Section 11101 of the BIL authorizes contract authority for the CRP.



2. Section 11104 of the BIL updates apportionment instructions in 23 U.S.C. 104.
3. Section 11403 of the BIL establishes the CRP in 23 U.S.C. 175.

**E. FUNDING**

1. **Authorization Levels:** Estimated annual CRP funding under the BIL is:

<b>Estimated Annual CRP Funding</b>	
Fiscal Year (FY) 2022	\$1.234 B
FY 2023	\$1.258 B
FY 2024	\$1.283 B
FY 2025	\$1.309 B
FY 2026	\$1.335 B

The BIL sets each State’s initial share of Federal-aid highway program apportioned (formula) funds annually based on the share of formula funds each State received in fiscal year 2021. The methodology for calculating the apportionments for FY 2022 under 23 U.S.C. 175 is discussed in FHWA Notice [N4510.858](#). For FY 2023 through 2026 funds, please revisit [FHWA’s Notice website](#) at the appropriate future time.

The Fiscal Management Information System Program Codes for these CRP funds are as follows:

<b>Program Code</b>	<b>Program Description</b>	<b>Title 23 Reference</b>
Y600	Carbon Reduction Program (CRP) Flexible	Section 175(e)(1)(B); Section 104(b)(7)
Y601	CRP – Urbanized Areas with Population Over 200K	Section 175(e)(1)(A)(i)
Y606	CRP – Urbanized Areas with Population 50K to 200K	Section 175(e)(1)(A)(ii)
Y607	CRP – Urban Areas with Population 5K to 49,999	Section 175(e)(1)(A)(iii)
Y608	CRP – Areas with Population less than 5K	Section 175(e)(1)(A)(iv)

For urbanized areas with population over 200K and urbanized areas with population 50K to 200K, the CRP funding in FMIS will be provided at the individual urbanized area level.<sup>2</sup>

<sup>2</sup> For example see [FHWA Notice N 4510.864 Fiscal Year \(FY\) 2022 Supplementary Tables – Table 18 - Apportionments Pursuant to the Infrastructure Investment and Jobs Act](#) and [FHWA Notice N 4510.864 Fiscal Year \(FY\) 2022 Supplementary Tables – Table 19 - Apportionments Pursuant to the Infrastructure Investment and Jobs Act](#).

2. **Period of Availability:** CRP funds are contract authority. CRP obligations are reimbursed from the Highway Account of the Highway Trust Fund. CRP funds are available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized (*See* 23 U.S.C. 118(b)). Thus, CRP funds are available for obligation for up to 4 years.
3. **Obligation Limitation:** CRP funds are subject to the annual obligation limitation imposed on the Federal-aid highway program.

In general, a State that is required under 23 U.S.C. 175(e) to obligate CRP funds in an urbanized area with an urbanized area population of 50,000 or more shall make available during the period of fiscal years 2022 through 2026 an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the amount obtained by multiplying:

- a. the aggregate amount of funds that the State is required to obligate in the area under this subsection during the period; and
- b. the ratio that—
  - i. the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to
  - ii. the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period. (*See* 23 U.S.C. 175(e)(6)(A))

Each State, each affected Metropolitan Transportation Planning Organization (MPO), and the Secretary shall jointly ensure compliance with 23 U.S.C. 175(e)(6)(A). (*See* 23 U.S.C. 175(e)(6)(B))

4. **Federal share:** The Federal share for CRP-funded projects is governed by 23 U.S.C. 120, as amended by the BIL. It is generally 80 percent (*See* 23 U.S.C. 120(b)).
5. **Combining CRP Funds with Other Eligible USDOT funding:** CRP funds can be spread further by combining them with other eligible USDOT funding for projects that support the reduction of transportation emissions, if the eligibility requirements and applicable Federal share are met for each program.
6. **Deobligations of Other Title 23 Obligated Funds:** Project Agreements should not be modified to replace one Federal fund category with another unless specifically authorized by statute (*See* 23 CFR 630.110(a)).
7. **Suballocation Within a State** (*See* 23 U.S.C. 175(e))  
*Specified Areas*  
 For each fiscal year, 65 percent of funds apportioned to the State for the CRP shall be obligated, in proportion to their relative shares of the population in the State:

- In urbanized areas of the State with an urbanized area population of more than 200,000 (these funds may be obligated in the metropolitan area established under 23 U.S.C.134 that encompasses the urbanized area.);
- In urbanized areas of the State with an urbanized population of not less than 50,000 and not more than 200,000;
- In urban areas of the State with a population of not less than 5,000 and not more than 49,999; and
- In other areas of the State with a population of less than 5,000.

The State may obligate these funds suballocated for specified areas based on other factors if the State and relevant MPOs jointly apply to the Secretary for permission to base the obligation on other factors, and the request is approved by the Secretary.

*Any Area of State*

The remaining 35 percent of funds apportioned to a State for the CRP each fiscal year may be obligated in any area of the State.

**F. CARBON REDUCTION STRATEGIES**

1. **General:** By November 15, 2023, States are required to develop a Carbon Reduction Strategy in consultation with any MPO designated within the State (23 U.S.C. 175(d)(1)). The State Carbon Reduction Strategy shall support efforts to reduce transportation emissions and identify projects and strategies to reduce these emissions. The Carbon Reduction Strategy must be updated at least once every four years (23 U.S.C. 175(d)(3) and (4)). States and MPOs are encouraged to obligate CRP funding for projects that support implementation of the State’s Carbon Reduction Strategy.
2. **Development:** States, in coordination with MPOs, are encouraged to develop their Carbon Reduction Strategies as an integral part of their transportation planning processes, such as by integrating them into the State’s Long-Range Statewide Transportation Plan (LRSTP), the MPO’s Metropolitan Transportation Plan (MTP), or by developing a separate document which is incorporated by reference into the LRSTP and MTP.

States may request technical assistance from FHWA for the development of their Carbon Reduction Strategy (*See* 23 U.S.C. 175(d)(5)).

Development of a Carbon Reduction Strategy is an allowable use of CRP funds (see Eligibilities below).

3. **Contents:** Each Carbon Reduction Strategy shall (*See* 23 U.S.C. 175(d)(2)):
  - A. support efforts to reduce transportation emissions;
  - B. identify projects and strategies to reduce transportation emissions, which may include projects and strategies for safe, reliable, and cost-effective options—
    - i. to reduce traffic congestion by facilitating the use of alternatives to single-occupant vehicle trips, including public transportation facilities, pedestrian facilities, bicycle facilities, and shared or pooled vehicle trips within the State

- or an area served by the applicable MPO, if any;
    - ii. to facilitate the use of vehicles or modes of travel that result in lower transportation emissions per person-mile traveled as compared to existing vehicles and modes; and
    - iii. to facilitate approaches to the construction of transportation assets that result in lower transportation emissions as compared to existing approaches;
  - C. support the reduction of transportation emissions of the State;
  - D. at the discretion of the State, quantify the total carbon emissions from the production, transport, and use of materials used in the construction of transportation facilities within the State; and
  - E. be appropriate to the population density and context of the State, including any metropolitan planning organization designated within the State.
- 4. **Review:** Not later than 90 days after the State submits a request for the approval of a Carbon Reduction Strategy, the Secretary will review the process used to develop the Carbon Reduction Strategy and either certify that the Carbon Reduction Strategy meets the requirements of 23 U.S.C. 175(d)(2) or deny certification and specify the actions necessary for the State to take to correct the deficiencies in the State’s process for developing the Carbon Reduction Strategy (23 U.S.C. 175(d)(4)).

**G. ELIGIBILITIES AND COORDINATION REQUIREMENTS**

- 1. **General:** CRP funding may be used on a wide range of projects that support the reduction of transportation emissions. Projects must be identified in the Statewide Transportation Improvement Program (STIP)/Transportation Improvement Program (TIP) and be consistent with the Long-Range Statewide Transportation Plan and the Metropolitan Transportation Plan(s). (23 U.S.C. 134 and 23 U.S.C. 135)

Projects are subject to requirements under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (42 U.S.C. 4601 *et seq.*), and other applicable Federal laws. Projects funded with CRP funds are required to be treated as projects on Federal-aid highways (23 U.S.C. 175(g)).

- 2. **Program Evaluation**

States are encouraged to incorporate program evaluation including associated data collection activities from the outset of their program design and implementation to meaningfully document and measure their progress towards meeting an agency priority goal(s). Title I of the Foundations for Evidence-Based Policymaking Act of 2018 (Evidence Act), Pub. L. No. 115-435 (2019) urges federal awarding agencies to use program evaluation as a critical tool to learn, to improve equitable delivery, and to elevate program service and delivery across the program lifecycle. Evaluation means “an assessment using systematic data collection and analysis of one or more programs, policies, and organizations intended to assess their effectiveness and efficiency.” Evidence Act § 101 (codified at 5 U.S.C. § 311). Credible program evaluation activities are implemented with relevance and utility, rigor,

independence and objectivity, transparency, and ethics (OMB Circular A-11, Part 6 Section 290).

Evaluation costs are allowable costs unless prohibited by statute or regulation, and such costs may include the personnel and equipment needed for data infrastructure and expertise in data analysis, performance, and evaluation. (2 CFR Part 200).

- 3. Eligible Activities:** Subject to the general eligibility requirements described in Section E.1 of this memorandum, the following activities are listed as eligible under 23 U.S.C. 175(c):
- A. a project described in 23 U.S.C. 149(b)(4) to establish or operate a traffic monitoring, management, and control facility or program, including advanced truck stop electrification systems;
  - B. a public transportation project eligible for assistance under 23 U.S.C. 142 (this includes eligible capital projects for the construction of a bus rapid transit corridor or dedicated bus lanes as provided for in BIL Section 11130 (23 U.S.C. 142(a)(3));
  - C. a [transportation alternatives project](#) as described in 23 U.S.C. 101(a)(29) as in effect prior to the enactment of the FAST Act,<sup>3</sup> including the construction, planning, and design of on-road and off-road trail facilities for pedestrians, bicyclists, and other nonmotorized forms of transportation;
  - D. a project described in section 23 U.S.C. 503(c)(4)(E) for advanced transportation and congestion management technologies;
  - E. a project for the deployment of infrastructure-based intelligent transportation systems capital improvements and the installation of vehicle-to-infrastructure communications equipment, including retrofitting dedicated short-range communications (DSRC) technology deployed as part of an existing pilot program to cellular vehicle-to-everything (C-V2X) technology;
  - F. a project to replace street lighting and traffic control devices with energy-efficient alternatives;
  - G. development of a carbon reduction strategy (as described in the Carbon Reduction Strategies section above);
  - H. a project or strategy designed to support congestion pricing, shifting transportation demand to nonpeak hours or other transportation modes, increasing vehicle occupancy rates, or otherwise reducing demand for roads, including electronic toll collection, and travel demand management strategies and programs;
  - I. efforts to reduce the environmental and community impacts of freight movement;
  - J. a project to support deployment of alternative fuel vehicles, including—
    - (i.) the acquisition, installation, or operation of publicly accessible electric vehicle charging infrastructure or hydrogen, natural gas, or propane vehicle fueling infrastructure; and
    - (ii.) the purchase or lease of zero-emission construction equipment and vehicles, including the acquisition, construction, or leasing of required supporting facilities;
  - K. a project described under 23 U.S.C. 149(b)(8) for a diesel engine retrofit;
  - L. certain types of projects to improve traffic flow that are eligible under the CMAQ

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<sup>3</sup> See [Transportation Alternatives Set-Aside Implementation Guidance as Revised by the Infrastructure Investment and Jobs Act](#)

- program, and that do not involve construction of new capacity; (23 U.S.C. 149(b)(5) and 175(c)(1)(L)); and
- M. a project that reduces transportation emissions at port facilities, including through the advancement of port electrification.

Other projects that are not listed above may be eligible for CRP funds if they can demonstrate reductions in transportation emissions over the project's lifecycle. Consistent with the CRP's goal of reducing transportation emissions, projects to add general-purpose lane capacity for single occupant vehicle use will not be eligible absent analyses demonstrating emissions reductions over the project's lifecycle. For example, the following project types may be eligible for CRP funding:

*Sustainable pavements and construction materials*

Sustainable pavements technologies that reduce embodied carbon during the manufacture and/or construction of highway projects could be eligible for CRP if a lifecycle assessment (LCA) demonstrates substantial reductions in CO<sub>2</sub> compared to the implementing Agency's typical pavement-related practices. The [LCA Pave Tool](#) can be used to assess the CO<sub>2</sub> impacts of pavement material and design decisions.

*Climate Uses of Highway Right-of-Way*

Projects including alternative uses of highway right-of-way (ROW) that reduce transportation emissions are also eligible. For example, renewable energy generation facilities, such as solar arrays and wind turbines, can reduce transportation emissions. And, biologic carbon sequestration practices along highway ROW to capture and store CO<sub>2</sub> may demonstrate potential for substantial long-term transportation emissions reductions. [State DOTs Leveraging Alternative Uses of the Highway Right-of-Way Guidance](#) provides information on these practices.

*Mode Shift*

Projects that maximize the existing right-of-way for accommodation of nonmotorized modes and transit options that increase safety, equity, accessibility, and connectivity may be eligible. Projects that separate motor vehicles from pedestrians and bicyclists, match vehicle speeds to the built environment, increase visibility (e.g., lighting), and advance implementation of a Safe System approach and improve safety for vulnerable road users may also be eligible. Micromobility and electric bike projects, including charging infrastructure, may also be eligible.

States should work with the FHWA on eligibility questions for specific projects. The [CMAQ Emissions Calculator Toolkit](#) is an available resource for estimating the CO<sub>2</sub> emissions benefits of certain projects.

#### **4. Flexibility on Use of Funds and Certification of Emissions Reduction**

In addition to the above eligibilities, a State may use funds apportioned under CRP for any project eligible under the Surface Transportation Block Grant program (23 U.S.C 133(b)) if the Secretary certifies that the State has demonstrated a reduction in

transportation emissions (1) as estimated on a per capita basis, and (2) as estimated on a per unit of economic output basis. In the first year of this program, States should initially focus on developing their Carbon Reduction Strategies and using CRP funding to begin implementing their Carbon Reduction Strategies once adopted to establish a baseline; for this reason, the Secretary will not certify flexibility for the CRP until at least FY 2023. FHWA will publish additional guidance on the process under which the Secretary will certify state transportation emissions reductions. Section C.4 of this memo discusses the separate flexibility on transferability between FHWA programs.

## 5. Consultation and Coordination

### *Coordination in Urbanized Areas*

Before obligating funds for eligible projects in an urbanized area that is not a transportation management area, a State must coordinate with any MPO that represents the urbanized area prior to determining which activities should be carried out under the project (23 U.S.C. 175(e)(4)). The State and MPO must also use their documented public involvement processes, including their process for seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households, who may face challenges accessing employment and other services (23 U.S.C. 450.210(a)(1)(viii) and 450.316(a)(1)(vii)).

### *Consultation in Rural Areas*

Before obligating funds for an eligible project in a rural area, a State must consult with any regional transportation planning organization or MPO that represents the rural area prior to determining which activities should be carried out under the project (23 U.S.C. 175(e)(5)). The State and MPO must also use their documented public involvement processes, including their process for seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households, who may face challenges accessing employment and other services (23 U.S.C. 450.210(a)(1)(viii) and 450.316(a)(1)(vii)).

## H. DAVIS-BACON ACT REQUIREMENTS

As provided at 23 U.S.C 175(g), all projects funded with CRP funding shall be treated as located on a Federal-aid highway. Accordingly, 23 U.S.C 113 applies, and Davis-Bacon wage rates must be paid. In general, Davis-Bacon requires that all laborers and mechanics employed by the applicant, subrecipients, contractors or subcontractors in the performance of construction, alteration, or repair work on an award or project in excess of \$2000 funded directly by or assisted in whole or in part by funds made available under CRP shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code commonly referred to as the “Davis-Bacon Act” (DBA).

For additional guidance on how to comply with DBA provisions and clauses, see <https://www.dol.gov/agencies/whd/government-contracts/construction> and

<https://www.dol.gov/agencies/whd/government-contracts/protections-for-workers-in-construction>. See also <https://www.fhwa.dot.gov/construction/cqit/dbacon.cfm>.