

Bipartisan Infrastructure Bill

Transportation Funding/Programs

Boston Region MPO, February 17, 2022

AGENDA

- Highway Formula Programs
 - Reauthorized Programs
 - Additional Highway Trust Fund Programs
 - New Programs Funded with General Revenue
- Transit Formula Programs
- Discretionary Programs

Highway Formula Funding

- Massachusetts five-year apportionments (FY22-FY26) under the Bipartisan Infrastructure Law (BIL) include approximately \$5.4 billion in highway formula funds.
- BIL's highway formula funds are composed of:
 - \$3.5 billion in reauthorized amounts already programmed in the FFY22-FY26 STIP
 - \$449 million in increased funding for existing STIP programs
 - \$1.4 billion for other formula programs
- The \$1.4 billion in other formula funds includes:
 - \$1.125 billion for a new bridge program
 - \$106.5 million for a new resiliency program (PROTECT)
 - \$93.7 million for a new carbon reduction program
 - \$63.5 million for a new electric vehicle infrastructure program
 - \$9.1 million for ferry boats and terminals

Federal Transportation Funding – A Primer

- The Bipartisan Infrastructure Law (BIL) includes three distinct types of transportation funding – Contract Authority, Supplemental Appropriations, and Authorizations Subject to Appropriation.
- **Contract Authority** is used for programs funded from the Highway Trust Fund. It is established by a reauthorization act and is not subject to annual appropriation. However, Congress annually imposes an overall obligation limitation that constrains the maximum amount of contract authority. Approximately 83% of the transportation funding in BIL is contract authority.
- **Supplemental Appropriations** are appropriations made in a reauthorization act instead of the annual appropriations bill. They are self-effectuating and not subject to the annual obligation ceiling. Approximately 13% of the transportation funding in BIL is supplemental appropriations.
- **Authorizations Subject to Appropriation** are program amounts that are included in a reauthorization act but require a subsequent appropriation to effectuate. Approximately 4% of the transportation funding in BIL is subject to future appropriation.

The FY 22 Continuing Resolution

- Congress has not yet passed a Transportation Appropriations Act. Instead, we are operating under a Continuing Resolution (CR) that expires on March 11th.
- The CR is based upon the FAST ACT, not BIL, and does not provide sufficient obligation authority for the FY22 increases contained in BIL or allow the implementation of any new programs under FHWA's Contract Authority (e.g., the new Carbon Reduction and PROTECT formula programs).
- Programs funded with Supplemental Appropriations (e.g., the new Formula Bridge Program and Electric Vehicle Infrastructure Formula Program) do not rely on Contract Authority, are not subject to obligation limitation, and can be implemented regardless of the CR.

Programming BIL in the TIPs – Target Funding

- Regional Target Funding in the TIPs is based upon formula funds annually apportioned to the state from the Highway Trust Fund.
- Consistent with a long-established process, Massachusetts distributes approximately 1/3 of these funds among the state's MPOs based upon a formula developed by the Massachusetts Association of Regional Planning Agencies.
- Based upon an assumed obligation authority of 90% (five-year rolling average), for FY23-FY26 the statewide increase in STIP funding is \$442.2 million; the increase in overall regional target funding is \$150.7 million; and the increase in Boston MPO target funding is \$64.7 million. The fifth year of the TIP, FY27, will be based on an assumed amount consistent with BIL's annual amounts.

Programming BIL in the TIPs – Statewide Funding

- Statewide Funding in the TIPs is based upon a combination of formula funds annually apportioned to the state from the Highway Trust Fund (HTF) and formula funds apportioned to Massachusetts from BIL's Supplemental Appropriations.
- Consistent with a long-established process, Massachusetts distributes approximately 2/3 of HTF funds to statewide projects and programs (includes highway, bridge and bicycle/pedestrian projects, as well as GANs repayment, MPO planning funds, extra work orders and award adjustments, etc.).
- BIL's Supplemental Appropriation formula funds include the Formula Bridge Program, the Electric Vehicle Infrastructure Program and the Ferry Boat and Terminal Program.

A Note on Supplemental Appropriations

- Programs funded with Supplemental Appropriations are not subject to obligation limitation, nor to the typical STIP “use it or lose it” requirement. Instead, each program is governed by specific statutory language.
- Massachusetts apportionment under the new Formula Bridge Program is estimated to be \$1.1 billion over five years (approximately \$225.3 million per year). Annual funding under the program is available for obligation for a period of four years (i.e., FY22 funds can be obligated between FY22 and FY25; FY23 funds can be obligated between FY23 and FY26; and so on).
- Massachusetts apportionment under the new Electric Vehicle Infrastructure Program is estimated to be \$63.5 million over five years. Funding under the program is available until expended; however, an FHWA-approved State Electric Vehicle Infrastructure Plan is a prerequisite to obligating program funds.

Highway Formula Funding - Takeaways

- Over the five-year period FY22-FY26, BIL increased Massachusetts transportation formula funding by over 34% including:
 - \$449 million in increased apportionments for existing programs
 - \$200 million for two new HTF funded programs – Carbon Reduction and PROTECT
 - \$1.2 billion for two new Supplemental Appropriation funded programs – Formula Bridge and Electric Vehicle Infrastructure
- The failure to pass an Appropriations Act, coupled with the language of the existing Continuing Resolution, prohibits BIL's FY22 increases from taking effect and constrains the implementation of the Carbon Reduction and PROTECT programs. Should Congress address this issue, the current TIPs will need to be amended to program BIL's increased FY22 funding.
- BIL's Supplemental Appropriation formula funds have been apportioned to the state. Bridge funds are available for programming; Electric Vehicle Infrastructure (EVI) funds cannot be programmed until completion of an FHWA-approved State EVI Plan.

Transit Formula Funding

- Massachusetts five-year transit formula funding (FY22-FY26) under the Bipartisan Infrastructure Law (BIL) is approximately \$2.8 billion, of which \$2.2 billion is for the MBTA.
 - The FY22-FY26 STIP programs for approximately \$1.6 billion in MBTA formula funds
 - The increased MBTA formula funding under BIL is approximately \$581 million
- The MBTA's transit formula funds under BIL are composed of:
 - \$968 million in Urbanized Area funds, an increase of \$193 million
 - \$1.2 billion in State of Good Repair funds, an increase of \$389 million
 - \$31 million in Bus and Bus Facility funds, a reduction of \$1 million
- BIL did not establish any new transit formula programs.

BIL's Discretionary Programs

- BIL includes authorizations for over 35 discretionary (competitive) programs administered by the USDOT Office of the Secretary and the Operating Agencies, with total funding in excess of \$110 billion.
 - 18 existing programs are reauthorized for an aggregate amount of approximately \$77.3 billion
 - 19 new programs are reauthorized for an aggregate amount of approximately \$36.1 billion
 - These grants are administered by the following entities with USDOT
 - Office of the Secretary – 5 programs authorized at \$19 billion
 - FHWA – 17 programs authorized at \$28.4 billion
 - FTA – 10 programs authorized at \$19.4 billion
 - FRA – 4 programs authorized at \$44.3 billion
 - Maritime – 1 program authorized at \$2.3 billion
- ❖ Note: Transit projects may be eligible for funding under FHWA or FRA programs depending upon the statutory language and the particular project

Discretionary Programs – Office of the Secretary

- There are three large programs administered by the Office of the Secretary – RAISE Grants, Mega Project Grants and Safe Streets and Roads for All.
- Local and Regional Project Assistance Grants (RAISE)
 - Existing program reauthorized at \$7.5 billion over five years
 - A Notice of Funding Opportunity (NOFO) for FY 22 was issued February 4th and applications are due April 14th. The total amount of funding available in FY22 is \$1.5 billion, a 50% increase over FY21
- National Infrastructure Project Assistance Grants (Mega Projects)
 - New program authorized at \$5 billion over five years
 - USDOT expects to release selection criteria in February
- Safe Streets and Roads for All
 - New program authorized at \$5 billion over five years
 - USDOT expects to release a NOFO in the second quarter of CY22
 - Program is open to MPOs, local governments and federally recognized tribes, but not states

Discretionary Programs – FHWA (slide 1 of 3)

- There are six large programs administered by FHWA– INFRA Grants, the Bridge Investment Program, PROTECT Grants, Charging and Fueling Infrastructure Grants, Rural Surface Transportation Grants and the Reconnecting Communities Pilot Program.
- Nationally Significant Freight and Highway Projects (INFRA)
 - Existing program reauthorized at \$8 billion over five years (including \$750 million set aside for state incentives pilot program). BIL includes an additional \$6 billion authorized subject to appropriation
 - FHWA expects to release a NOFO in the first quarter of CY22
- Bridge Investment Program
 - New program authorized at \$12.5 billion over five years (including \$200 million set aside for Tribal bridges and \$100 million set aside for planning). BIL includes an additional \$4 billion authorized subject to appropriation
 - This program is funded with both Supplemental Appropriations (\$9.2 billion) and Contract Authority (\$3.3 billion), which cannot be accessed under the existing Continuing Resolution, and FHWA has not yet announced a next milestone for this program

Discretionary Programs – FHWA (slide 2 of 3)

- Promoting Resilient Operations for Transformative, Efficient and Cost-saving Transportation (PROTECT) Grants
 - New program authorized at \$1.4 billion over five years (supplements the \$7.3 billion formula program)
 - Includes three \$125 million set asides - At-Risk Coastal Infrastructure, Community Resilience and Evacuation Routes, and Planning
 - Funded with Contract Authority, which cannot be accessed under the existing Continuing Resolution
- Charging and Fueling Infrastructure Grants
 - New program authorized at \$2.5 billion over five years (supplements the \$5 billion formula program)
 - Divided equally between a corridor program and a community program
 - Funded with Contract Authority, which cannot be accessed under the existing Continuing Resolution

Discretionary Programs – FHWA (slide 3 of 3)

- Rural Surface Transportation Grants
 - New program authorized at \$2 billion over five years
 - Includes three set asides – 10% for small projects (under \$25 million), 25% for Appalachian Development Highways, and 15% for states with higher than average rural roadway lane departure fatalities
 - Funded with Contract Authority, which cannot be accessed under the existing Continuing Resolution

- Reconnecting Communities Pilot Program
 - New program authorized at \$1 billion over five years
 - This program is funded with both Supplemental Appropriations (\$500 million) and Contract Authority (\$500 million), which cannot be accessed under the existing Continuing Resolution, and FHWA has not yet announced a next milestone for this program

Discretionary Programs – FTA (slide 1 of 2)

- There are five large programs administered by FTA – Capital Investment Grants, Low or No Emission Bus Grants, Bus and Bus Facilities Competitive Grants, the All Stations Accessibility Program and Rail Vehicle Replacement Grants.
- Capital Investment Grants
 - Existing program reauthorized at \$8 billion over five years. BIL includes an additional \$15 billion authorized subject to appropriation
 - Funds New Starts, Small Starts and Core Capacity projects, each with their own statutory requirements and each with a multi-step, multi-year development process
- Low or No Emission Bus Grants
 - Existing program reauthorized at \$5.6 billion over five years
 - The FY 22 amount is estimated to be \$1.1 billion and FTA expects to issue a NOFO in the first quarter of CY22

Discretionary Programs – FTA (slide 2 of 2)

- **Bus and Bus Facilities Competitive Grants**
 - Existing program reauthorized at \$2 billion over five years (supplements the \$3.2 billion formula program)
 - The FY 22 amount is estimated to be \$376 million and FTA expects to issue a NOFO in the first quarter of CY22
- **All Stations Accessibility Program**
 - New program authorized at \$1.8 billion over five years
 - Purpose is to upgrade the accessibility of legacy rail fixed guideway public transportation systems for people with disabilities
 - Program requirements are still being developed and FTA has not yet announced a next milestone for this program
- **Rail Vehicle Replacement Grants**
 - New program authorized at \$1.5 billion over five years
 - Limited to a maximum of three projects per year and projects may be multi-year
 - The FY 22 amount is estimated to be \$300 million and FTA expects to issue a NOFO in the second quarter of CY22