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DEPARTMENT OF TRANSPORTATION

[4910-22-P]

Federal Highway Administration

[FHWA Docket No. FHWA-2016-0020]

Fixing America's Surface Transportation Act – Productive and Timely Expenditure of Funds

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice; request for comments.

SUMMARY: By this notice, FHWA announces a new Web site providing information and guidance on the use of programmatic approaches to project delivery in accordance with section 1421 of the Fixing America's Surface Transportation (FAST) Act (“Productive and Timely Expenditure of Funds”). The FHWA requests comments on what procedures, techniques, programmatic approaches, or best practices should be considered for inclusion on the Web site. In addition, FHWA is requesting comment on any information resources that are readily available regarding practices and procedures that avoid unnecessary delays, minimize cost overruns, and ensure the effective use of Federal funds.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Late comments will be considered to the extent practicable.

ADDRESSES:

You may submit comments identified by the docket number FHWA-2016-0020 by any one of the following methods:

Fax: 1-202-493-2251;

Mail: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590;

Hand Delivery: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590,

between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or

electronically through the Federal eRulemaking Portal: <http://www.regulations.gov>.

Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name, docket name and docket number for this notice (FHWA-2016-0020). The DOT posts these comments, without edit, including any personal information the commenter provides, to

www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> at any time or to U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20950, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald Yakowenko, FHWA Office of Program Administration, 202-366-1562, or via e-mail at

gerald.yakowenko@dot.gov. For legal questions, please contact Ms. Jennifer Mayo, FHWA Office of the Chief Counsel, 202-366-1523, or via e-mail at jennifer.mayo@dot.gov. Office hours for the FHWA are from 8 a.m. to 4:30 p.m., ET, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the Federal Register's home page at: <http://www.archives.gov> and the Government Printing Office's database at: <http://www.access.gpo.gov/nara>.

Background

On December 4, 2015, President Obama signed into law the FAST Act. The FAST Act authorizes \$305 billion over fiscal years 2016 through 2020 for DOT's highway, highway and motor vehicle safety, public transportation, motor carrier safety, hazardous materials safety, rail, and research, technology and statistics programs.

Section 1421 of the FAST Act, "Productive and Timely Expenditure of Funds," states that the Secretary shall develop guidance that encourages the use of programmatic approaches to project delivery, expedited and prudent procurement techniques, and other best practices to facilitate productive, effective, and timely expenditure of funds for projects eligible for funding under title 23, United States Code. The Secretary is directed to work with States to ensure that any guidance developed under section 1421(a) is consistently implemented by States and the Federal Highway Administration to avoid

unnecessary delays in completing projects; minimize cost overruns; and ensure the effective use of Federal funding.

For the purposes of section 1421, FHWA interprets the term “programmatic approach” to mean a method, procedure, tool, or technique that promotes increased efficiency by taking advantage of economy of scale (e.g., a construction contract that provides for the replacement of bridges at multiple locations in lieu-of separate contracts for each bridge). The term “programmatic agreement” means an agreement that sets procedures for consultation, review, and compliance with Federal laws. Programmatic agreements allow repetitive actions to be handled on a program basis rather than on a project-by-project basis (e.g., an agreement between a State department of transportation and an FHWA Division Office concerning the roles and responsibilities associated with review and approval of changes in Interstate-System Access). Programmatic approaches may include programmatic agreements.

The FHWA invites public comment on the following:

1. As it relates to section 1421, what procedures, techniques, programmatic approaches, or best practices should be considered for inclusion on the Web site?
2. What information resources are readily available that will provide documentation regarding procedures that avoid unnecessary delays, minimize cost overruns, and ensure the effective use of funds?

An example list of resources is available at the following Web site:

<http://www.fhwa.dot.gov/construction/contracts/section1421.cfm>. The FHWA will consider posting information regarding the recommended procedures, techniques,

programmatic approaches, and best practices collected through this public notice and comment process.

Issued on: August 22, 2016.

Gregory G. Nadeau

Administrator

Federal Highway Administration

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