



**G4910-9X**

**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, 2020**

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

**ACTION:** Notice of Funding Opportunity.

**SUMMARY:** The Further Consolidated Appropriations Act, December 20, 2019) ("FY 2020 Appropriations Act") appropriated \$1 billion 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 2020 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 5 PM E.D.T. on May 18, 2020.

**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:** 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. The definitions of urban and rural areas are consistent with the FY 2019 BUILD Transportation grant definitions, which differed from previous rounds. Additionally, not more than 50 percent of funds will be awarded to projects located in urban and rural areas, respectively. In addition to capital awards, DOT will award at least \$15 million for eligible planning and preconstruction activities that do not result in construction of a capital project.

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## **A. Program Description**

The Further Consolidated Appropriations Act, 2020 (Pub. L. 116-94, December 20, 2019) (“FY 2020 Appropriations Act”) appropriated \$1 billion to be awarded by the Department of Transportation (“DOT”) for National Infrastructure Investments. Since this program was created, \$8 billion has been awarded for capital investments in surface transportation infrastructure over eleven 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 2020 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. Consistent with DOT’s R.O.U.T.E.S. initiative, DOT seeks rural projects that address deteriorating conditions and disproportionately high fatality rates on rural transportation infrastructure. Such projects may concurrently invest in broadband to better facilitate productivity 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 2020 Appropriations Act appropriated \$1 billion to be awarded by DOT for the BUILD Transportation grants program. The FY 2020 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, DOT will award no less than \$15 million (of the \$1 billion) for the planning, preparation or design of eligible projects. DOT refers to such awards as BUILD Transportation planning grants. The FY 2020 Appropriations Act also allows DOT to retain up to \$25 million of the \$1 billion for award, oversight and administration of grants and credit assistance made under the program. In addition to the FY 2020 BUILD funds, unobligated TIGER FY 2017 and FY 2018 BUILD funds may be made available and awarded under this solicitation to projects that can be obligated before the September 30, 2020 obligation deadline associated with those prior years' funds. If this solicitation does not result in the award and obligation of all available funds, DOT may publish additional solicitations.

The FY 2020 Appropriations Act allows up to 20 percent of available funds (or \$200 million) to be used by DOT 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 2020 BUILD funds would further the purposes of the BUILD Transportation grants program.

## **2. Award Size**

The FY 2020 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.4.(a)) the minimum award size is \$1 million. There is no minimum award size, regardless of location, for BUILD Transportation

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

### **3. Restrictions on Funding**

Pursuant to the FY 2020 Appropriations Act, no more than 10 percent of the funds made available for BUILD Transportation grants (or \$100 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 \$500 million) shall be awarded to projects located in rural areas (as defined in section C.4.(a)) and directs that not more than 50 percent of the funds provided for BUILD Transportation grants (or \$500 million) shall be awarded to projects located in urbanized areas (as defined in section C.4.(a)). 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 2020 Appropriations Act requires that FY 2020 BUILD Transportation grants funds are available for obligation only through September 30, 2022. 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 DOT in writing after DOT's announcement of FY 2020 BUILD awards, any costs incurred prior to DOT's obligation of funds for a project are ineligible for reimbursement.<sup>1</sup> All FY 2020

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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

BUILD funds must be expended (the grant obligation must be liquidated or actually paid out to the grantee) by September 30, 2027. After this date, unliquidated funds are no longer available to the project. As part of the review and 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.

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the DOT announces that a project is selected for a FY 2020 BUILD award cannot be charged to FY 2020 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 2020 BUILD award cannot be charged to FY 2020 BUILD funds.

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.

DOT expects that the eligible applicant that submits the application will administer and deliver the project. If the applicant seeks a transfer of the award to another agency, a letter of support from the designated entity must be included in the application.

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

Per the FY 2020 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.4.(a) of this notice. DOT shall give priority to projects that require a contribution of Federal funds in order to complete an overall financing package.

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. DOT will not consider

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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.

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.

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. Other**

#### **i. Eligible Projects**

##### **(a) Capital 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 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); (5) intermodal projects; and (6) projects investing in surface transportation facilities that are located on tribal land and for which title or maintenance responsibility is vested in the Federal Government.<sup>3</sup>

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<sup>3</sup> Please note that DOT may award a BUILD Transportation grant to pay for the surface transportation components of a broader project that has non-surface transportation components, and applicants are

Other than projects described in this section, improvements to Federally owned facilities are ineligible under the FY 2020 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.4. (b).

(b) Planning 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 eligible surface transportation capital projects described in Section C.3. (a).

In addition, eligible activities related to multidisciplinary projects or regional planning may include: (1) Development of master plans, comprehensive plans, or corridor plans; (2) Planning activities related to the development of a multimodal freight corridor, including those that seek to reduce conflicts with residential areas and with passenger and non-motorized traffic; (3) Development of port and regional port planning grants, including State-wide or multi-port planning within a single jurisdiction or region; (4) Risk assessments and planning to identify vulnerabilities and address the transportation system's ability to withstand probable occurrence or recurrence of an emergency or major disaster.

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encouraged to apply for BUILD Transportation grants to pay for the surface transportation components of these projects.

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.

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. For BUILD Transportation planning grants, the location of the project being planned, prepared, or designed will be used for the urban or rural designation.

This definition affects four aspects of the program: (1) not more than \$500 million of the funds provided for BUILD Transportation grants are to be used for projects in rural areas; (2) not more than \$500 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.

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<sup>4</sup> Updated lists of UAs as defined by the Census Bureau are available on the Census Bureau website at <https://www.census.gov/geographies/reference-maps/2010/geo/2010-census-urban-areas.html>.

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

DOT expects, and will impose requirements on fund recipients to ensure, that all components included in an application will be delivered as part of the BUILD project, regardless of whether a component includes Federal funding. 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.1; 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. 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. Applicants are encouraged to also complete SF-424C and attach to their application the “BUILD 2020 Project Information” form available at [www.transportation.gov/BUILDgrants](http://www.transportation.gov/BUILDgrants).

DOT 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      |
| V. Environmental Risk Review                              | 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 DOT 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 DOT. DOT 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. DOT 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. DOT 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 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. Applicants may also 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.

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. The application should also identify whether the project is located in an Opportunity Zone.<sup>6</sup> The Department intends to collect Opportunity Zone information to advance other Department activities related to Opportunity Zones, but the Department does not consider projects located in an Opportunity Zone to be more competitive for a BUILD 2020 award than projects located outside an Opportunity Zone<sup>7</sup>. If the project is located within the boundary of a Census-designated urbanized area, the application should identify that urbanized area.

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<sup>6</sup> See <https://www.cdfifund.gov/Pages/Opportunity-Zones.aspx> for more information on Opportunity Zones

<sup>7</sup> See <https://www.transportation.gov/opportunity-zones> for more information about the Department's activities related to Opportunity Zones.

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

This section of the application should describe the budget for the BUILD project (i.e. the project scope that includes BUILD funding). This budget should **not** include any previously incurred expenses. At a minimum, it should include:

- (a) Costs for the BUILD 2020 project;
- (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. Documentation should also be included as an appendix to the application. If matching contributions from a State DOT are included as non-Federal match, a supporting letter from the State indicating the source of the funds;
- (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 DOT's expectations for award execution align with any funding restrictions unrelated to DOT, 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. DOT 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 addresses each criterion separately and promotes a clear discussion that assists project evaluators. To minimize redundant information in the application, DOT 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 DOT 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.

#### (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>8</sup>

(iii) Innovative Financing

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

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<sup>8</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/)

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. Environmental Risk

This section of the application should include sufficient information for DOT to evaluate whether the project is reasonably expected to begin construction in a timely manner. To assist DOT's project environmental risk review, the applicant should provide the information requested on project schedule, required approvals and permits, NEPA, risk and mitigation strategies, 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 environmental risk, promotes a clear discussion that assists project evaluators. To minimize redundant information in the

application, DOT 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 DOT will evaluate environmental risk is described in Section E.1.ii of this notice. Applicants should review that section when considering how to organize their application.

(a) 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, 2022 for FY 2020 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, 2027; 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.

(b) 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:
  - i. 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.

**ii.** 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>9</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.

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

**iv.** 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

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<sup>9</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.

reviews and approvals.

- v. 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. For projects acquiring State DOT-owned right of way, applicants should demonstrate they have coordinated the project with the State DOT or transportation facility owner. 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>10</sup>

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<sup>10</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

including intermodal projects located at airport facilities.<sup>11</sup> Applicants should demonstrate that a project that is required to be included in 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.

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

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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>11</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 communities, among others; and must not adversely affect the continued and unhindered access of passengers to the terminal.

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 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 its 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 DOT 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 DOT'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. DOT 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 DOT is ready to make a BUILD Transportation grant, DOT 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**

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.

#### **(a) Deadline**

Applications must be submitted by 5:00 PM E.D.T. on May 18, 2020. 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 DOT 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.

(b) 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.

(c) Late Applications

Applicants experiencing technical issues with Grants.gov that are beyond the applicant's control must contact 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 DOT 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**

#### **(a) Capital Projects**

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. For each proposed project, DOT will review the potential long-term benefits for the primary and secondary merit criteria described in this section. DOT does not consider any primary merit criterion more important than the others. Applications that do not demonstrate a potential for moderate long-term benefits based on these criteria will not proceed in the evaluation process. In evaluating the primary and secondary merit criteria, DOT will review the project's local or regional impact as well the content and credibility of information used to explain project benefits.

i. Primary Merit Criteria

a. Safety

DOT will assess the project's ability to foster a safe transportation system for the movement of goods and people. DOT 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

DOT 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. DOT will prioritize projects that ensure the good condition of transportation infrastructure, including rural transportation infrastructure, that support commerce and economic growth.

c. Economic Competitiveness

DOT will assess whether the project will (1) decrease transportation costs and improve access, 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; (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

DOT 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.

DOT 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) 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

DOT 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 DOT 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 Merit Criteria

a. Innovation

DOT will assess the extent to which the applicant uses innovative strategies, including: (1) innovative technologies, (2) innovative project delivery, or (3) innovative financing.

1. 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, DOT 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, DOT 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. DOT 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.

## 2. 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.

DOT 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. DOT'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, DOT 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, DOT 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. DOT 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. DOT will make a separate determination in accordance with those programs' processes on the appropriateness of a waiver.

### 3. 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

DOT 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.

### iii. Demonstrated Project Readiness

During application evaluation, DOT may consider project readiness to assess the likelihood of a successful project. In that analysis, DOT will consider three evaluation ratings: Environmental Risk, Technical Capacity, and Financial Capacity. Environmental Risk assessment analyzes the project's environmental approvals and likelihood of the necessary approval affecting project obligation. The Technical Capacity will be reviewed for all eligible applications and will assess the applicant's capacity to successfully deliver the project in compliance with applicable Federal requirements based on factors including the recipient's experience working with Federal agencies, previous experience with BUILD or INFRA awards, and the technical experience and resources dedicated to the project. The Financial Capacity assessment reviews the availability of matching funds and whether the applicant presented a complete funding package. 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.

### iv. Project Costs and Benefits

DOT may consider the costs and benefits of projects seeking BUILD Transportation grant funding. To the extent possible, DOT 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 (BCR) and net quantifiable benefits based on the applicant-supplied BCA described in Section D.2.vi.

To evaluate the costs and benefits of a proposed project, DOT will assign the project into ranges based on its estimated BCR and net present value (NPV), and DOT

will assign a level of confidence associated with the estimated BCR and NPV ranges. DOT will use these ranges for BCR: Less than 1; 1–1.5; 1.5–3; and greater than 3. DOT will use these ranges for NPV: Less than \$0; \$0– \$50,000,000; \$50,000,000–\$250,000,000; and greater than \$250,000,000. The confidence levels are high, medium, and low.

#### (b) Planning Grants

Planning grant applications will be evaluated against the same criteria as capital grants. For project-level planning, this means considering how the project resulting from the plan will ultimately further the primary and secondary merit criteria. For regional transportation planning efforts, applications should demonstrate how the regional plan will help lead to these outcomes. BUILD Transportation planning grant applicants will be evaluated for their capacity to successfully implement the proposed planning activities in a timely manner. DOT will not evaluate the benefits and costs (as expressed in a benefit-cost analysis) or environmental risks of projects that do not include construction.

#### (c) Additional Considerations

The FY 2020 Appropriations Act requires DOT 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 as Highly Recommended, Recommended, Acceptable, or Unacceptable. To receive a Highly Recommended rating, (1) the project must demonstrate that, more likely than not, it will generate long-term benefits in one or more primary merit criteria and the project does not appear to negatively affect any of the other merit criteria; (2) the project must have a clear, direct, significant, and positive local or regional impact (i.e. the project will, more likely than not, reduce the problem or use the opportunity that project proposes to address); and (3) the application contains sufficient information to assess project benefits and the benefits claimed by the applicant appear reasonable and justifiable. If the project has not substantively changed from prior submissions to BUILD or other Department programs, staff may rely on previous analysis. 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 2020 Appropriations Act mandated BUILD Transportation grant awards by September 15, 2020. 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. DOT 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. DOT 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 or to incur costs for the proposed project. 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.

Recipients of BUILD Transportation Grant awards will not receive lump-sum cash disbursements at the time of award announcement or obligation of funds. Instead, BUILD funds will reimburse recipients only after a grant agreement has been executed, allowable expenses are incurred, and valid requests for reimbursement are submitted. Unless authorized in writing by DOT, an expense incurred before a grant agreement is executed will not be reimbursed.

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

Please visit <https://www.transportation.gov/policy-initiatives/build/grant-agreements> for the General Terms and Conditions for BUILD 2019 awards. The BUILD 2020 Terms and Conditions will be similar to the BUILD 2019 Terms and Conditions, but may include relevant updates.

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 DOT determines that a recipient has failed to comply with applicable Federal requirements, DOT 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 Carriers Safety Regulations, or vehicles that are exempt from Federal Motor Vehicle 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/#build18>.

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.

### **3. Reporting**

#### **(a) 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.

#### **(b) 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.1. Performance reporting continues for several years after project construction is completed, and DOT does not provide BUILD Transportation grant funding specifically for performance reporting.

#### **(c) 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, DOT 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., DOT may make application narratives publicly available or share application information within DOT or with other Federal

agencies if DOT determines that sharing is relevant to the respective program's objectives.

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

DOT strives to provide as much information as possible to assist applicants with the application process. DOT will not review applications in advance, but DOT staff are available for technical questions and assistance. To efficiently use Department resources, DOT will prioritize interactions with applicants who have not already received a debrief on their FY 2019 BUILD Transportation grant application. Program staff will address questions received at BUILDgrants@dot.gov throughout the application period. DOT staff will make reasonable efforts to schedule meetings on projects through April 1, 2020. After that date, DOT staff will schedule meetings only to the extent possible and consistent with timely completion of other activities.

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Secretary.

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