

## U.S. Department of Transportation

### SUPPORTING STATEMENT

#### **Supplemental Discretionary Grants for Capital Investments in Surface Transportation Infrastructure (TIGER/BUILD Discretionary Grant Program) and National Infrastructure Investments**

**OMB Control No. 2105-0563**

Introduction: This is to request the Office of Management and Budget's (OMB) renewed three-year approved clearance for the information collection entitled, Supplemental Discretionary Grants for Capital Investments in Surface Transportation Infrastructure (TIGER/BUILD Discretionary Grant Program) and National Infrastructure Investments (OMB Control No. 2125-0563. Office of the Secretary of Transportation (OST) provides financial assistance to State and local Governments, including U.S. territories, tribal Governments, transit agencies, port authorities, metropolitan planning organizations (MPOs), and other political subdivisions of State or local Governments through the TIGER/BUILD Discretionary grants program. The information collection request previously approved by the Office of Management and Budget (OMB) expires on February 28, 2019.

- Responding to the collection is voluntary and is required to obtain or retain a benefit.
- Responders are local and state governments.
- The collection is grant application, grant agreement, project management and project evaluation. It has a reporting requirement.
- The information is collected one as needed.
- Information relevant to the application as spelled out in the Notice of Funding Opportunity (NOFO), and any reporting requirements agreed to be Grants recipients.
- The information will be received by DOT.
- The purpose of the collection is to receive information relevant to evaluating applications to the BUILD Grants program, per the NOFO, and reporting requirements agreed to by recipients of the Grants.
- This ICR is a revision.

This ICR supports the FY 2018 – 2022 DOT Strategic Plan, including all four strategic goals of:

- 1: Project Delivery, Planning, Environment, Funding and Finance
- 2: Life Cycle and Preventive Maintenance
- 3: System Operations and Performance
- 4: Economic Competitiveness and Workforce

Part A. Justification.

1. Circumstances that make collection of information necessary:

The collection of information is necessary in order to receive applications for grant funds, evaluate the effectiveness of projects that have been awarded grant funds, and monitor project financial conditions and project progress pursuant to the Supplemental Discretionary Grants for Capital Investments in Surface Transportation Infrastructure, previously referred to by the Department of Transportation (DOT) as “Grants for Transportation Investment Generating Economic Recovery”, or “TIGER” Discretionary Grants, and now referred to as “Better Utilizing Investments to Leverage Development” or “BUILD Transportation” Discretionary Grants. The program was implemented pursuant to the American Recovery and Reinvestment Act of 2009 (“Recovery Act,” Pub. L. 111-5); and additionally, pursuant to the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act of 2018 (“FY 2018 Appropriations Act”), Title I - Department of Transportation, Office of the Secretary, National Infrastructure Investments, Public Law 115-141, 132 Stat. 348. The Office of the Secretary of Transportation (“OST”) is referring to these grants as “TIGER” or “BUILD” Discretionary Grants, depending on the year of award. The purpose of each program is to advance projects that will have a significant impact on the Nation, Metropolitan area or a region.

OST requests information from applicants in the form an application. These applications are the subject of the existing information collection, and OST proposes to extend this collection of applications in order to solicit proposals for funding from eligible applicants for the 2018 cycle as well as any other unexpended funds from previous cycles. OST also proposes to extend the collection of information related to monitoring TIGER and BUILD grant recipients, project progress, and project performance to any similar appropriations made before this information collection expires. Since this ICR would cover an additional two appropriations before it expires, OST estimates that an additional 150 grants will be made, based on current and expected funding levels.

The relevant section of the Recovery Act is attached hereto as Exhibit A. The relevant section of the FY 2018 Appropriations Act is attached hereto as Exhibit B. An outline of the reporting requirements as they appear in the grant agreements for TIGER is attached as Exhibit C.

The Recovery Act specifies that each grantee shall submit periodic reports on the use of funds. The reporting requirements are submitted by recipients in four stages: the application stage, grant agreement stage, the project management stage and the project evaluation stage.

Application Stage

In order to be considered to receive a TIGER or BUILD grant, a project sponsor must submit an application to DOT containing a project narrative, as detailed in the Notice of Funding Opportunity. The project narrative should include the information necessary for the Department to determine that the project satisfies eligibility

requirements as warranted by law. This request renews the existing clearance to cover applications solicited for future National Infrastructure Investments appropriations, solicited in a manner similar to the solicitation for TIGER and BUILD applications.

### Grant Agreement Stage

The grant agreement is an agreement between DOT and the recipient. In the grant agreement, the recipient must describe the project that DOT agreed to fund, which is typically the project that was described in the TIGER/BUILD application or a reduced-scope version of that project. The grant agreement must also include a detailed breakdown of the project schedule and a budget listing all major activities that will be completed as part of the project. This Supporting Statement is part of our request to renew the existing clearance to cover requests for information from grantees that are necessary to negotiate the grant agreements.

### Project Management Stage

The reporting requirements under this stage are necessary to ensure the proper and timely expenditure of federal funds within the scope of the approved project. The requirements comply with the Common Grant Rule, and are also included in sections of the grant agreement. During the project management stage, the grantee will complete Quarterly Progress and Monitoring Reports to ensure that the project budget and schedule will be maintained to the maximum extent possible, that the project will be completed with the highest degree of quality, and that compliance with Federal regulations will be met. The substantive requirements of the report include: the project's overall status; project significant activities and issues; action items/outstanding issues; project scope overview; project schedule; project cost; an SF-425 Federal Financial Report; and certifications. This reporting requirement will greatly reduce the need for on-site visits by staff. A more detailed description of the reporting requirements excerpted from the BUILD grant agreement template is attached hereto as Exhibit C.

### Project Evaluation Stage

The reporting requirement under this stage is necessary to assess program effectiveness for the federal Government in both the Executive and Congressional branches. This electronic spreadsheet report is collected quarterly from grantees and provides information regarding how the project is achieving the outcomes that grantees have targeted to help measure the effectiveness of the TIGER and BUILD grants as a program. Information provided will allow the Government to analyze project performance. This information permits federal Executive and Congressional evaluation of the program.

## 2. How, by whom, and for what purpose is the information used:

The information collected will be used by OST and the Modal Administrations administering the grants.

OST will continue to use the information collected in the application phase to evaluate proposals and make decisions to award grants to applicants for any future similar appropriations, as OST has done in multiple rounds of TIGER and with the current round of BUILD.

OST and the Modal Administrations will use the information to monitor the progress of projects that have been awarded TIGER or BUILD Discretionary Grant funds, and to monitor the proper expenditure of Federal funds. After the grant money has been used by the recipients, OST and the Modal Administrations will continue to collect information on the performance of the resulting projects to assess the effectiveness of individual projects in achieving outcomes that grantees have targeted to help measure the effectiveness of the TIGER and BUILD grants as a program.

The project management information will be collected by grant recipients. Much of the information will be produced and collected through the normal process of project management, so the additional burden of Government information collection is small in comparison to the information that grant recipients already collect to manage their projects properly. The purpose of the project management information collection is to ensure that the project budget and schedule will be maintained to the maximum extent possible, that the project will be completed with the highest degree of quality, and that compliance with Federal regulations will be met.

The project evaluation information will be collected by grant recipients. Some of the information is already collected through the normal performance measurement of business operations done by the project sponsors and grant recipients. Some of the performance measurement information, however, will require extra efforts on the part of the grant recipients to collect. In the case of each grant, recipients are offered the opportunity to propose performance measures that would like to collect information on, so that the least burdensome, mutually agreeable performance measures may be selected by consensus of the Government and the grant recipient.

The purpose of project evaluation information collection is to allow the Government and the grantee to assess the performance gains achieved through the TIGER or BUILD investments at the project level and will facilitate the comparison of investments against each other to assist the Government in understanding why some TIGER investments perform differently than other investments. This information permits federal Executive and Congressional evaluation of the program.

### 3. Extent of automated information collection:

The Department will receive applications reports electronically via email and via websites from grant awardees upon approval from OMB. Certain agencies within the Department have found that delivery of reports electronically is the most reliable way to collect information and will use their existing grant administration systems to collect the information covered under this request. In order to minimize the burden on applicants, OMB approved standard forms are being used to collect information where possible. Such standard forms include the Application for Federal Assistance (SF-424), available online at

[https://apply07.grants.gov/apply/forms/sample/SF424\\_2\\_1-V2.1.pdf](https://apply07.grants.gov/apply/forms/sample/SF424_2_1-V2.1.pdf), and the post-award Federal Financial Reports form (SF-425), available online at [https://apply07.grants.gov/apply/forms/sample/SF425\\_2\\_0-V2.0.pdf](https://apply07.grants.gov/apply/forms/sample/SF425_2_0-V2.0.pdf).

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public. If the application includes information the applicant considers to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1) Note on the front cover

that the submission “Contains Confidential Business Information (CBI)”; (2) mark each affected page “CBI”; and (3) highlight or otherwise denote the CBI portions. DOT protects such information from disclosure to the extent allowed under applicable law. In

the event DOT receives a Freedom of Information Act (FOIA) request for the information, DOT will follow the procedures described in its FOIA regulations at 49 CFR 7.17. Only information that is ultimately determined to be confidential under that

procedure will be exempt from disclosure under FOIA.

4. Efforts to identify duplication:

The information collected from grantees is project specific and the information is not available other than from the grantees. The information will be used to monitor projects on a quarterly basis, and to ensure on an annual basis that the project’s plan conforms to the project’s real operating environment.

5. Efforts to minimize the burden on small businesses:

Grantees include State and local governments, including U.S. territories, tribal governments, transit agencies, port authorities, metropolitan planning organizations (MPOs), other political subdivisions of State or local governments. No grantees are business organizations, small or otherwise. To minimize the burden on small governmental recipients, the post-project performance measures that grant recipients are required to report to OST on are subjected to negotiations between OST and the recipients, so that the least burdensome, mutually agreeable measures are selected.

6. Impact of less frequent collection of information:

If the information requested in the reports is not collected, the Department will not be able to evaluate project progress or financial conditions in accordance with the FY 2018 Consolidated Appropriations Act, the Recovery Act (which includes specific reporting requirements), and the Notices of Funding Opportunity for both programs published in the *Federal Register*. Additionally, without the information the Department will not be able to evaluate the effectiveness of projects that receive grant funds, and therefore the effectiveness of the grant funds in achieving program goals, without post-project performance measurement data collection. The quarterly collection of financial data ensures that the economic stimulus and job creation goals of both programs can be tracked, and ensures that the use of Federal funds

can be appropriately monitored. The quarterly collection of performance measures after the project is complete ensures that changes in seasonal use and performance of projects are measured. Some performance measures will be collected at broader intervals, but the maximum burden on Grantees to provide information for some performance measures will be quarterly. Reporting periods and the specific performance measures tracked will be negotiated with grantees individually in order to place an appropriate, minimal information collection burden on grantees that allows OST to evaluate the effectiveness of the TIGER/BUILD programs' impacts on the transportation challenges the grantees' projects intend to address.

If these and other reports were required less frequently, additional site visits by agency staff would be required to ensure compliance with program objectives.

7. Special circumstances:

During the negotiation of the grant agreement, DOT may require the recipient to report information to the agency more often than quarterly. Otherwise, all information collected is consistent with the guidelines in 5 CFR 1320.6.

8. Compliance with 5 CFR 1320.8:

60-Day Federal Register Notice, December 12, 2018 (83 FR 67484). No public comments were received in response to the 60-day notice.

30-Day Federal Register Notice, February 28, 2019 (84 FR 6863).

Preliminary negotiations with grantees about performance measure data collections are ongoing. OST has worked with grantees on reporting requirements in shaping its reporting system and offers an opportunity for all grantees to comment on its methodologies.

9. Payments or gifts to respondents:

No payment is made to respondents, other than remuneration to successful TIGER or BUILD grantees. The remuneration to grantees are in the form of reimbursements up to the amount of the TIGER/BUILD award as negotiated in the signed and executed grant agreement.

10. Assurance of confidentiality:

There is no assurance of confidentiality regarding these submissions.

11. Justification for collection of sensitive information:

None of the information is of a sensitive nature.

12. Estimate of burden hours for information requested:

<u>Requirements</u>	<u># of Annual Submissions</u>	<u>Burden hours per Submission</u>	<u>Total Burden hours</u>
<b><u>Application Stage</u></b> <i>(includes all of the following)</i>			
Applications	850	100	85,000
<b><u>Grant Agreement Stage</u></b> <i>(includes all of the following)</i>			
Requests for information related to signing grant agreements	75	1	75
<i>Total</i>	925		85,075
<b><u>Project Management Stage</u></b> <i>(includes all of the following)</i>			
Quarterly Progress Report (SF-425)	1,700 (2,000)	6.5 (1.5)	11,050 (3,000)
<i>Total</i>	1,700		11,050
<b><u>Project Evaluation Stage</u></b> <i>(includes all of the following)</i>			
Quarterly Performance Measures Report	1,700	6	10,200
<i>Total</i>	1,700		10,200
<b>Grand Total</b>	<b>4,325</b>		<b>106,325</b>

All burden hour estimates are based on: a comprehensive review of all the requirements associated with the TIGER/BUILD program, discussions with appropriate modal staff, and analysis of other Department programs.

Estimate of the cost to respondents:

There is a wide variance in the level of effort required by recipients to comply with the Project Management Stage reporting requirements. The complexity of Project Evaluation Stage reports submitted each quarter varies considerably on a project-by-project basis resulting in a wide variance in the level of effort required. A majority of reports, however, will be simple and straightforward. The figures below are representative of a straightforward project of average complexity that has completed construction over a three-year period with a three-year period of performance measurement once construction is complete.

Application Stage

We estimate that it takes approximately 100 person-hours to read the Notice of Funding Opportunity and compile an application package for a TIGER/BUILD application. Since OST expects to receive 850 applications per appropriation, the total hours required are estimated to be 85,000 hours (100 hours x 850 applications = 85,000 hours) on a one-time basis, per appropriation. Although various personnel are involved in the development of an application, the average salary is estimated to be \$33 per hour. Therefore, the cost to the respondents is computed at \$2,805,000 (85,000 hours x \$33 = \$2,805,000).

#### Grant Agreement Stage:

We estimate that it takes approximately 1 person-hour to respond to OST requests for more information in negotiating the grant agreements. Since OST has negotiated 463 grant agreements for TIGER, OST estimates that there will likely be 75 grant agreements negotiated per additional appropriation. The total hours required are estimated to be 75 (1 hr. x 75 agreements = 75 hours) on a one-time basis, per appropriation. Although various personnel are involved in the development of an application, the average salary is estimated to be \$33 per hour. Therefore, the cost to the respondents is computed at \$2,475 (75 hours x \$33 = \$2,475).

#### Project Management Stage:

We estimate that it takes approximately 6.5 person-hours to develop and submit a quarterly project progress report to OST for review. OST has already awarded 463 TIGER projects and expects that an additional 75 projects would be added to this number, per appropriation, while OST expects that an equal number of projects would reach completion during the year and would no longer need to submit these reports. Since OST expects to receive 1,700 quarterly project progress reports per year, the total hours required are estimated to be 11,050 (6.5 hours x 1,700 reports = 11,050 hours). Although various personnel are involved in the development of an application, the average salary is estimated to be \$33 per hour. Therefore, the cost to the respondents is computed at \$364,650 (11,050 hours x \$33 = \$364,650).

#### Project Evaluation Stage:

We estimate that it takes approximately 6 person-hours to develop and submit a quarterly performance measures report to OST for review. Since OST expects to receive 1,700 quarterly performance measures reports per year, the total hours required are estimated to be 10,200 (6 hours x 1,700 reports = 10,200 hours). Although various personnel are involved in the development of an application, the average salary is estimated to be \$33 per hour. Therefore, the cost to the respondents is computed at \$336,600 (10,200 hours x \$33 = \$336,600).

**The grand total annual cost to the respondent for both the application, grant negotiation, program management and evaluation stage is \$3,508,725.**

#### 13. Estimate of total annual costs to respondents:

There is no additional cost beyond that shown in items 12 and 14.

14. Estimate of cost to the Federal government:

The cost is calculated as follows:

Application Stage:

OST will review the applications to assess project eligibility and merit and to provide information for the discretionary decision-making process prior to the award of any future BUILD grants.

We estimate that the average grade level of the reviewers is GS-12/step 5, paid at \$44.28 per hour. Three reviewers will review each application for an hour each. Since we expect to evaluate 850 applications, the cost to the federal Government is \$112,914 (3 hours x 850 applications = 2,550 hours x \$44.28 = \$112,914), per appropriation.

Grant Agreement Stage:

Information may be requested from grantees to negotiate the grant agreements under which the TIGER or BUILD funds will be distributed. OST does not expect to request much information from grantees, since most of the information required was submitted along with the grant applications.

We estimate that the average grade level of the reviewers is GS-12/step 5, paid at \$44.28 per hour. Since we expect to negotiate 75 grant agreements and for one employee to spend about two hours requesting the information and using it to draft the grant agreements, the cost to the federal Government is \$6,642 (2 hours x 75 applications = 150 hours x \$44.28 = \$6,642), per appropriation.

Project Management Stage:

Individuals managing projects throughout OST and the Modal Administrations vary from GS-9 to GS-14; however, in looking at the averages it can take a GS-12/step 5 (average salary, \$44.28 per hour) about ½ hour per report to review it. There are approximately 463 projects requiring reports annually, and a total of 5 reports per project, or 2,315 submissions, annually. The cost to the federal Government is \$51,254.10 (1/2 hr. x 2,315 submissions = 1157.5 hours x \$44.28 = \$51,254.10), annually.

Project Evaluation Stage:

Grantee performance information is submitted electronically and quarterly to OST via email. This information will be summarized and analyzed by OST staff or a contractor and posted for the public. OST estimates that one staff person at the GS-12/step 5 level will devote approximately 2 hours to this task, per project, per year, totaling approximately \$41,003 (2 hours x 463 projects = 926 hours x \$44.28 per

hour = \$41,003), per year.

**The grand total annual cost to the Federal Government for the application, grant negotiation, program management and evaluation stage is \$211,813 as shown in the table below:**

<b>Project Stages</b>	<b>Cost to the Federal Government</b>
Application Stage	\$112,914
Grant Agreement Stage	\$6,642
Project Management Stage	\$51,254
Project Evaluation Stage	\$41,003
<b>The grand total</b>	<b>\$211,813</b>

15. Explanation of program changes or adjustments:

Since this ICR would cover an additional two appropriations before it expires, OST estimates that an additional 150 grants will be made. Additionally, the Recovery Act and the Notices of Funding Opportunity for each program cycle require OST to collect information from grant recipients in order to monitor the progress and financial conditions of projects that have been awarded grants, and to monitor the performance of completed projects against the goals of the completed projects. However, due to streamlining of quarterly progress and performance measure reporting, there is an overall decrease in burden expected. The changes in burden are related to the need for OST and Modal Administrations to oversee and administer the grants, as well as to collect information on the transportation outcomes of the grants.

16. Publication of results of data collection:

OST plans to publish the results of the information collected for statistical use and use by grantees on the program website ([www.transportation.gov/BUILDgrants](http://www.transportation.gov/BUILDgrants)).

17. Approval for not displaying the expiration date of OMB approval:

There is no reason not to display the expiration date of OMB approval.

18. Exceptions to certification statement:

No exceptions are stated.

EXHIBIT A

One Hundred Eleventh Congress of the United States of America

**AT THE FIRST SESSION**

*Begun and held at the City of Washington on Tuesday, the sixth day of January, two thousand and nine*

An Act

Making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “American Recovery and Reinvestment Act of 2009”.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

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## AGENCIES

TITLE XI—STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS

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TITLE III—PREMIUM ASSISTANCE FOR COBRA BENEFITS

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TITLE V—STATE FISCAL RELIEF

TITLE VI—BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM

TITLE VII—LIMITS ON EXECUTIVE COMPENSATION

### **SEC. 3. PURPOSES AND PRINCIPLES.**

(a) STATEMENT OF PURPOSES.—The purposes of this Act include the following:

- (1) To preserve and create jobs and promote economic recovery.
- (2) To assist those most impacted by the recession.
- (3) To provide investments needed to increase economic efficiency by spurring technological advances in science and health.
- (4) To invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits.
- (5) To stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.

(b) GENERAL PRINCIPLES CONCERNING USE OF FUNDS.—The President and the heads of Federal departments and agencies shall manage and expend the funds made available in this Act so as to achieve the purposes specified in subsection (a), including commencing expenditures and activities as quickly as possible consistent with prudent management.

### **SEC. 4. REFERENCES.**

Except as expressly provided otherwise, any reference to “this Act” contained in any division of this Act shall be treated as referring only to the provisions of that division.

### **SEC. 5. EMERGENCY DESIGNATIONS.**

(a) IN GENERAL.—Each amount in this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

(b) PAY-AS-YOU-GO.—All applicable provisions in this Act are designated as an emergency for purposes of pay-as-you-go principles.

## DIVISION A—APPROPRIATIONS PROVISIONS

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2009, and for other purposes, namely:

...

### TITLE XII—TRANSPORTATION AND HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES DEPARTMENT OF TRANSPORTATION

#### OFFICE OF THE SECRETARY

##### SUPPLEMENTAL DISCRETIONARY GRANTS FOR A NATIONAL SURFACE TRANSPORTATION SYSTEM

For an additional amount for capital investments in surface transportation infrastructure, \$1,500,000,000, to remain available through September 30, 2011: *Provided*, That the Secretary of Transportation shall distribute funds provided under this heading as discretionary grants to be awarded to State and local governments or transit agencies on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region: *Provided further*, That projects eligible for funding provided under this heading shall include, but not be limited to, highway or bridge projects eligible under title 23, United States Code, including interstate rehabilitation, improvements to the rural collector road system, the reconstruction of overpasses and interchanges, bridge replacements, seismic retrofit projects for bridges, and road realignments; public transportation projects eligible under chapter 53 of title 49, United States Code, including investments in projects participating in the New Starts or Small Starts programs that will expedite the completion of those projects and their entry into revenue service; passenger and freight rail transportation projects; and port infrastructure investments, including projects that connect ports to other modes of transportation and improve the efficiency of freight movement: *Provided further*, That of the amount made available under this paragraph, the Secretary may use an amount not to exceed \$200,000,000 for the purpose of paying the subsidy and administrative costs of projects eligible for federal credit assistance under chapter 6 of title 23, United States Code, if the Secretary finds that such use of the funds would advance the purposes of this paragraph: *Provided further*, That in distributing funds provided under this heading, the Secretary shall take such measures so as to ensure an equitable geographic distribution of funds and an appropriate balance in addressing the needs of urban and rural communities: *Provided further*, That a grant funded under this heading shall be not less than \$20,000,000 and not greater than \$300,000,000: *Provided further*, That the Secretary may waive the minimum grant size cited in the preceding proviso for the purpose of funding significant projects in smaller cities, regions, or States: *Provided further*, That not more than 20 percent of the funds made available under this paragraph may be awarded to projects in a single State: *Provided further*, That the Federal share of the costs for which an expenditure is made under this heading may be up to 100 percent: *Provided further*, That the Secretary shall give priority to projects that require a contribution of Federal funds in order to complete an overall financing package, and to projects that are expected to be completed within 3 years of enactment of this Act: *Provided further*, That the Secretary shall publish criteria on which to base the competition for any grants awarded under this heading not later than 90 days after enactment of this Act:

*Provided further*, That the Secretary shall require applications for funding provided under this heading to be submitted not later than 180 days after the publication of such criteria, and announce all projects selected to be funded from such funds not later than 1 year after enactment of this Act: *Provided further*, That projects conducted using funds provided under this heading must comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code: *Provided further*, That the Secretary may retain up to \$1,500,000 of the funds provided under this heading, and may transfer portions of those funds to the Administrators of the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration and the Maritime Administration, to fund the award and oversight of grants made under this heading.

EXHIBIT B

**Public Law No: 115-31 (05/05/2017)**

\*Public Law 115-31  
115th Congress

An Act

Making appropriations for the fiscal year ending September 30, 2017, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Consolidated Appropriations Act, 2017”.

...

**DIVISION K—TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2017**

TITLE I

DEPARTMENT OF TRANSPORTATION OFFICE OF THE SECRETARY

NATIONAL INFRASTRUCTURE INVESTMENTS

For capital investments in surface transportation infrastructure, \$500,000,000, to remain available through September 30, 2020: Provided, That the Secretary of Transportation shall distribute funds provided under this heading as discretionary grants to be awarded to a State, local government, transit agency, or a collaboration among such entities on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region: Provided further, That projects eligible for funding provided under this heading shall include, but not be limited to, highway or bridge projects eligible under title 23, United States Code; public transportation projects eligible under chapter 53 of title 49, United States Code; passenger and freight rail transportation projects; and port infrastructure investments (including inland port infrastructure and land ports of entry): Provided further, That the Secretary may use up to 20 percent of the funds made available under this heading for the purpose of paying the subsidy and administrative costs of projects eligible for Federal credit assistance under chapter 6 of title 23, United States Code, if the Secretary finds that such use of the funds would advance the purposes of this paragraph: Provided further, That in distributing funds provided under this heading, the Secretary shall take such measures so as to ensure an equitable geographic distribution of funds, an appropriate balance in addressing the needs of urban and rural areas, and the investment in a variety of transportation modes: Provided further, That a grant funded under this heading shall be not less than \$5,000,000 and not greater than \$25,000,000: Provided further, That not more than 10 percent of the funds made available under this heading may be awarded to projects in a single State: Provided further, That the Federal share of the costs for which an expenditure is

made under this heading shall be, at the option of the recipient, up to 80 percent: Provided further, That the Secretary shall give priority to projects that require a contribution of Federal funds in order to complete an overall financing package: Provided further, That not less than 20 percent of the funds provided under this heading shall be for projects located in rural areas: Provided further, That for projects located in rural areas, the minimum grant size shall be \$1,000,000 and the Secretary may increase the Federal share of costs above 80 percent: Provided further, That projects conducted using funds provided under this heading must comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code: Provided further, That the Secretary shall conduct a new competition to select the grants and credit assistance awarded under this heading: Provided further, That the Secretary may retain up to \$20,000,000 of the funds provided under this heading, and may transfer portions of those funds to the Administrators of the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration and the Maritime Administration, to fund the award and oversight of grants and credit assistance made under the National Infrastructure Investments program.

## EXHIBIT C

### GENERAL REPORTING TERMS

**Report Submission.** The Recipient shall send all reports required by the grant agreement to all of the DOT contacts who are listed in the grant agreement.

**Alternative Reporting Methods.** The Administering Operating Administration may establish processes for the Recipient to submit reports required by the grant agreement, including electronic submission processes. If the Recipient is notified of those processes in writing, the Recipient shall use the processes required by the Administering Operating Administration.

**Reporting as History of Performance.** Under 2 C.F.R 200.205, any Federal awarding agency may consider the Recipient's timely submission of the reports that the grant agreement requires, or the Recipient's failure to timely submit those reports, when evaluating the risks of making a future Federal financial assistance award to the Recipient.

**Paperwork Reduction Act Notice.** Under 5 C.F.R. 1320.6, the Recipient is not required to respond to a collection of information that does not display a currently valid control number issued by the Office of Management and Budget (the "OMB"). Collections of information conducted under the grant agreement are approved under OMB Control No. 2105-0563.

### PROGRESS REPORTING

**Quarterly Project Progress Reports and Recertifications.** On or before the 20th day of the first month of each calendar year quarter and until Project Closeout, the Recipient shall submit to the DOT a Quarterly Project Progress Report and Recertification with the form and content described in the grant agreement. If the date of the grant agreement is in the final month of a calendar year quarter, then the Recipient shall submit the first Quarterly Project Progress Report and Recertification in the second calendar year quarter that begins after the date of the grant agreement.

**Closeout Information.** No later than 90 days after the period of performance end date that is listed in the grant agreement, the Recipient shall:

- (1) submit a final Federal Financial Report (SF-425), a certification or summary of project expenses, and any other information required under the Administering Operating Administration's closeout procedures; and
- (2) provide a report comparing the final work, schedule, and budget to the statement of work, the schedule, and the budget described in the grant agreement.

**Project Closeout.** In the grant agreement, "Project Closeout" means the date that the DOT notifies the Recipient that the project is closed out. Under 2 C.F.R. 200.343, Project Closeout should occur no later than one year after the Recipient liquidates all obligations under this award and submits the reports identified in the relevant section of the grant agreement.

### PERFORMANCE REPORTING

**Performance Measure Data Collection.** The Recipient shall collect the data necessary to report on each performance measure that is identified in the Performance Measurement Table in the grant agreement.

**Pre-project Performance Measurement Report.** The Recipient shall submit to the DOT, on or before the Pre-project Report Date that is stated in the grant agreement, a Pre-project Performance Measurement Report that contains:

(1) baseline data for each performance measure that is identified in the Performance Measurement Table in the grant agreement, accurate as of the Pre-project Measurement Date that is stated in the grant agreement; and

(2) a detailed description of the data sources, assumptions, variability, and estimated levels of precision for each measure.

**Interim Performance Measurement Reports.** After project completion, the Recipient shall submit to the DOT on or before each of the periodic reporting dates specified in the Performance Measurement Table in the grant agreement, an Interim Performance Measurement Report containing data for each performance measure that is identified in that table, accurate as of the final date of the measurement period specified in that table.

**Project Outcomes Report.** The Recipient shall submit to the DOT, on or before the Project Outcomes Report Date that is stated in the grant agreement, a Project Outcomes Report that contains:

(1) a narrative discussion detailing project successes and the influence of external factors on project expectations;

(2) all baseline and interim performance measurement data that the Recipient reported in the Pre-project Performance Measurement Report and the Interim Performance Measurement Reports; and

(3) an *ex post* examination of project effectiveness relative to the baseline data that the Recipient reported in the Pre-project Performance Measurement Report.