

Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) Discretionary Grant Program

	FAST Act (extension)	Bipartisan Infrastructure Law (BIL)				
Fiscal year (FY)	2021	2022	2023	2024	2025	2026
Contract Authority	---	\$250 M	\$250 M	\$300 M	\$300 M	\$300 M

Note: Except as indicated, all references in this document are to the Bipartisan Infrastructure Law (BIL), enacted as the Infrastructure Investment and Jobs Act, Pub. L. 117-58 (Nov. 15, 2021).

Program Purpose

The BIL establishes the Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) Discretionary Grant Program to help make surface transportation more resilient to natural hazards, including climate change, sea level rise, flooding, extreme weather events, and other natural disasters through support of planning activities, resilience improvements, community resilience and evacuation routes, and at-risk coastal infrastructure.

Statutory Citation

§ 11405; 23 U.S.C. 176

Funding Features

The PROTECT Program includes both formula funding distributed to States and competitive grants. This fact sheet describes the program’s competitive grant funding (“PROTECT Discretionary Grant Program”).

Type of Budget Authority or Authorization of Appropriations

- Contract authority from the Highway Account of the Highway Trust Fund, subject to the overall Federal-aid obligation limitation.

Allocations

- Planning Grants:
 - \$25 M/year for FY22-FY23
 - \$30 M/year for FY24-FY26
- Resilience Improvement Grants:
 - \$175 M/year for FY22-FY23
 - \$210 M/year for FY24-FY26
- Community Resilience & Evacuation Route Grants:
 - \$25 M/year for FY22-FY23
 - \$30 M/year for FY24-FY26
- At-Risk Coastal Infrastructure Grants:
 - \$25 M/year for FY22-FY23
 - \$30 M/year for FY24-FY26

Distribution of Grants and Limitations

- **Multiyear Distribution of Funds:** Subject to the availability of funds and at the request of an eligible entity, the Secretary may distribute funds for a selected grant on a multiyear basis. [§ 11405; 23 U.S.C. 176(d)(5)(H)(i)]
- **Rural Set-Aside:** not less than 25% of the amounts made available to carry out 23 U.S.C. 176(d), for each fiscal year, shall be used for grants for projects located in areas that are outside an urbanized area with a population of over 200,000. [§ 11405; 23 U.S.C. 176(d)(5)(H)(ii)]
- **Tribal Set-Aside:** not less than 2% of the amounts made available to carry out 23 U.S.C. 176(d), for each fiscal year, shall be used for grants to eligible Indian tribes. [§ 11405; 23 U.S.C. 176(d)(5)(H)(iii)]
- **Reallocation:** for any fiscal year, if the amount under the Rural or Tribal set-aside will not be fully utilized, the funds may be reallocated to provide grants to other eligible entities. [§ 11405; 23 U.S.C. 176(d)(5)(H)(iv)]
- **Limitation on Construction of New Capacity:** an eligible entity that receives a Resilience Improvement, Community Resilience and Evacuation Route, or At-Risk Coastal Infrastructure Grant may use not more than 40% of the amount of the grant for the construction of new capacity. [§ 11405; 23 U.S.C. 176(d)(5)(G)(i)(I)]
- **Limit on Certain Activities:** not more than 25% of the total amount provided under 23 U.S.C. 176(d), for each fiscal year, may be used for a facility or service for intercity rail passenger transportation (as defined in 49 U.S.C. 24102). [§ 11405; 23 U.S.C. 176(d)(5)(G)(ii)]

Grant Administration

- Allows the Secretary to use up to 5% of the funds made available to carry out this program and to review applications for grants, and to transfer, if appropriate, portions of these retained funds to another Federal Administrator to fund the award and oversight of grants. [§ 11405; 23 U.S.C. 176(d)(7)]

Federal Share

Planning Grants: The Federal share of the cost of a planning activity carried out using a planning grant under 23 U.S.C. 176(d)(3) shall be 100%. [§ 11405; 23 U.S.C. 176(d)(5)(E)(i)]

Resilience Improvement, Community Resilience and Evacuation Route, and At-Risk Coastal Infrastructure Grants:

- The Federal share of the cost of a project shall not exceed 80% of the total project cost. [§ 11405; 23 U.S.C. 176(d)(5)(E)(ii)(I)]
- If the entity is an Indian tribe (as defined in 23 U.S.C. 207(m)(1)), the Federal share of the cost of a project may be up to 100%. [§ 11405; 23 U.S.C. 176(d)(5)(E)(ii)(II)]
- The non-Federal share may be reduced by:
 - 7 percentage points if the entity is a State or metropolitan planning organization (MPO), or the entity is located within a State or in an area served by a MPO, that has developed a Resilience Improvement Plan and prioritized the project on that Resilience Improvement Plan developed in accordance with 23 U.S.C. 176(e); and
 - 3 percentage points if the entity is a State or MPO, or the entity is located in a State or area served by an MPO, that has a Resilience Improvement Plan developed in accordance with 23 U.S.C. 176(e) and it is incorporated into the metropolitan transportation plan under 23 U.S.C. 134 or the statewide long-range transportation plan under 23 U.S.C. 135, as applicable. [§ 11405; 23 U.S.C. 176(e)(1)(B)]
- An eligible entity may not receive a reduction in non-Federal share under 23 U.S.C. 176(e)(1) of more than 10 percentage points for any single project carried out with a grant under the PROTECT Discretionary Grant Program. [§ 11405; 23 U.S.C. 176(e)(1)(B)(iii)(I)]
- A reduction in non-Federal share under 23 U.S.C. 176(e)(1) shall not reduce the non-Federal share of the costs of a project carried out with a grant under the PROTECT Discretionary Grant Program to an amount that is less than zero. [(§ 11405; 23 U.S.C. 176(e)(1)(B)(iii)(II)]

- An eligible entity may use Federal funds (other than PROTECT Discretionary Grant Program funds) to meet the non-Federal share for a project funded with PROTECT Discretionary Grant Program funds. [§ 11405; 23 U.S.C. 176(d)(5)(E)(iii)]

Eligible Facilities, Activities, Entities, and Costs

Eligible Facilities

- PROTECT Discretionary Grant Program funds may only be used for eligible activities and eligible costs (see below) associated with—
 - A highway project eligible for assistance under Title 23, U.S.C.;
 - A public transportation facility or service eligible for assistance under chapter 53 of Title 49, U.S.C.;
 - A facility or service for intercity rail passenger transportation (as defined in 49 U.S.C. 24102); or
 - A port facility, including a facility that connects a port to other modes of transportation, improves the efficiency of evacuations and disaster relief, or aids transportation. [§ 11405; 23 U.S.C. 176(d)(5)(C)]

Eligible Activities

- The PROTECT Discretionary Grant program provides funding for—
 - **Planning Grants** to include resilience planning, predesign, design, or the development of data tools to simulate transportation disruption scenarios, including vulnerability assessments; technical capacity building to facilitate the ability of the eligible entity to assess the vulnerabilities of its surface transportation assets and community response strategies under current conditions and a range of potential future conditions; or evacuation planning and preparation. In the case of States and MPOs, this includes grants for developing Resilience Improvement Plans in accordance with 23 U.S.C 176(e)(2). [§ 11405; 23 U.S.C. 176(c)(2) and 176(d)(3)]
 - **Resilience Improvement Grants** to improve the ability of an existing surface transportation asset to withstand one or more elements of a weather event or natural disaster, or to increase the resilience of surface transportation infrastructure from the impacts of changing conditions, such as sea level rise, flooding, wildfires, extreme weather events, and other natural disasters. [§ 11405; 23 U.S.C. 176(d)(4)(A)(ii)(I)];
 - **Community Resilience and Evacuation Route Grants** that strengthen and protect evacuation routes that are essential for providing and supporting evacuations caused by emergency events, including:
 - resilience improvements, if they will improve evacuation routes,
 - projects that ensure the ability of the evacuation route to provide safe passage during an evacuation and reduce the risk of damage to evacuation routes as a result of future emergency events,
 - the acquisition of evacuation route or traffic incident management equipment or signage, or
 - projects that will ensure access or service to critical destinations, including hospitals and other medical or emergency services facilities, major employers, critical manufacturing centers, ports and intermodal facilities, utilities, and Federal facilities.

Upon notification to the Secretary that existing evacuation routes are not sufficient to adequately facilitate evacuations, including the transportation of emergency responders and recovery resources, eligible activities include:

- expanding evacuation route capacity, including installation of:

- communications and intelligent transportation system equipment and infrastructure,
 - counterflow measures, or
 - shoulders; and
- construction of new or redundant evacuation routes. [§ 11405; 23 U.S.C. 176(d)(4)(B)]
- **At-Risk Coastal Infrastructure Grants** to strengthen, stabilize, harden, elevate, relocate or otherwise enhance the resilience of highway and non-rail infrastructure, including: bridges, roads, pedestrian walkways, and bicycle lanes, and associated infrastructure, such as culverts and tide gates to protect highways that are subject to, or face increased long-term future risks of, a weather event, a natural disaster, or changing conditions, including coastal flooding, coastal erosion, wave action, storm surge, or sea level rise, in order to improve transportation and public safety and to reduce costs by avoiding larger future maintenance or rebuilding costs. [§ 11405; 23 U.S.C. 176(d)(4)(C)(iii)]

Eligible Entities

- **Planning, Resilience Improvement, and Community Resilience and Evacuation Route Grants:**
 - a State (including, D.C. and Puerto Rico) or political subdivision of a State
 - a metropolitan planning organization
 - a unit of local government
 - a special purpose district or public authority with a transportation function, including a port authority
 - an Indian tribe (as defined in 23 U.S.C. 207(m)(1))
 - a Federal land management agency that applies jointly with a State or group of States
 - a multi-State or multi-jurisdictional group of entities consisting of any eligible entities listed above [§ 11405; 23 U.S.C. 176(d)(2)]
- **At-Risk Coastal Infrastructure Grants:**
 - a State (including DC, Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the North Mariana Islands) in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes
 - a political subdivision of a State described above
 - a metropolitan planning organization in a State described above
 - a unit of local government in a State described above
 - a special purpose district or public authority with a transportation function, including a port authority, in a State described above
 - an Indian tribe in a State described above
 - a Federal land management agency that applies jointly with a State or group of States described above
 - a multi-State or multijurisdictional group of eligible entities listed above [§ 11405; 23 U.S.C. 176(d)(4)(C)(i)]

Eligible Costs

- **Eligible Planning Grant Costs:** Activities consistent with carrying out the purpose of the planning grants (as described in 23 U.S.C. 176(d)(3)). This may include the costs of eligible project development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, other preconstruction activities, and other activities consistent with the purpose of a grant under 23 U.S.C. 176(d)(3). [§ 11405; 23 U.S.C. 176(d)(5)(F)(ii)]

- **Eligible Resilience Improvement, Community Resilience and Evacuation Route, and At-Risk Coastal Infrastructure Grants Costs:**
 - Project development phase activities (as described in 23 U.S.C. 176(d)(5)(F)(i)(I)), including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities; and
 - construction, reconstruction, rehabilitation, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, acquisition of equipment directly related to improving system performance, and operational improvements. [§ 11405; 23 U.S.C. 176(d)(5)(F)(i)]
 - An eligible entity may use not more than 10 percent of the amount of a Resilience Improvement, Community Resilience and Evacuation Route, or At-Risk Coastal Infrastructure Grant for project development phase activities. [§ 11405; 23 U.S.C. 176(d)(5)(G)(i)(II)]

System Resilience Elements

- Within each of the grant categories, projects may include the use of natural infrastructure or the construction or modification of storm surge, flood protection, or aquatic ecosystem restoration elements that are determined to be functionally connected to a transportation improvement, such as:
 - increasing marsh health and total area adjacent to a highway right-of-way to promote additional flood storage;
 - upgrades to and installation of culverts designed to withstand 100-year flood events;
 - upgrades to and installation of tide gates to protect highways; and
 - upgrades to and installation of flood gates to protect tunnel entrances. [§ 11405; 23 U.S.C. 176(d)(5)(D)]

Program Features

This is a new program under the BIL.

Selection Considerations

- **Resilience Improvement Grants** the Secretary shall prioritize a Resilience Improvement Grant to an eligible entity if:
 - the benefits of the eligible activity exceed the costs of the activity;
 - there is a need to address the vulnerabilities of surface transportation assets with a high risk of, and impacts associated with, failure due to the impacts of weather events, natural disasters, or changing conditions, such as sea level rise, wildfires, and increased flood risk; or
 - the eligible activity is included in an applicable Resilience Improvement Plan under 23 U.S.C 176(e)(2). [§ 11405; 23 U.S.C. 176(d)(4)(A)(iii)]
- **Community Resilience and Evacuation Route Grants** the Secretary shall prioritize Community Resilience and Evacuation Route Grants for eligible activities, taking into account:
 - current and future vulnerabilities to an evacuation route due to future occurrence or recurrence of emergency events that are likely to occur in the geographic area in which the route is located; and
 - projected changes in development patterns, demographics, and extreme weather events based on the best available evidence and analysis. [§ 11405; 23 U.S.C. 176(d)(4)(B)(iii)]
- **At-Risk Coastal Infrastructure Grants the projects selected shall:**
 - address the risks from a current or future weather event or natural disaster, including coastal flooding or erosion, wave action, storm surge, or sea level change; and

- reduce long-term infrastructure costs by avoiding larger future maintenance or rebuilding costs. [§ 11405; 23 U.S.C. 176(d)(4)(C)(iv)]
- In addition, the Secretary shall evaluate grant applications based on the extent to which a project will provide:
 - access to coastal homes, businesses, communities, and other critical infrastructure, including access by first responders and other emergency personnel; or
 - access to a designated evacuation route. [§ 11405; 23 U.S.C. 176(d)(4)(C)(v)]

Treatment of Projects

- Treats every project funded under the program as if it were located on a Federal-aid highway. This ensures applicability of Davis-Bacon wage requirements that apply to other projects on Federal-aid highways. [§ 11405; 23 U.S.C. 176(h)]

Additional Information and Assistance

- FHWA can connect you with your local FHWA office and support you with technical assistance for planning, design, construction, preserving, and improving public roads and in the stewardship of Federal funds. For assistance, visit: https://www.fhwa.dot.gov/bipartisan-infrastructure-law/technical_support.cfm.