

# FEDERAL LANDS ACCESS PROGRAM (FLAP)

	FAST Act (extension)	Bipartisan Infrastructure Law (BIL)				
Fiscal year (FY)	2021	2022	2023	2024	2025	2026
<b>Contract authority</b>	<b>\$270 M</b>	<b>\$286 M</b>	<b>\$292 M</b>	<b>\$297 M</b>	<b>\$304 M</b>	<b>\$309 M</b>

**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).

Under BIL, the amount authorized for FLAP will increase to \$286 M in FY22 from \$270 M in FY21. Over the five years of the BIL, the FLAP will receive over 14% more under this program, as compared to the amounts authorized in the FAST Act (FY16-20).

## Program Purpose

The BIL continues to allocate FLAP funds for projects on Federal Lands Access Transportation Facilities that are located on or adjacent to, or that provide access to Federal lands.

## Statutory Citations

- § 11113; 23 U.S.C. 201 and 204

## Funding Features

Except as specified below, BIL continues all funding features that applied to FLAP under the FAST Act.

### Types 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.

### Set-aside

- Increases the combined amount of **FLAP** and **FLTP** funds to be set aside each FY (for example, transportation planning) from not more than 5% [**NEW**] to not more than 20% [§ 11113(a)(2); 23 U.S.C. 201(c)(8)(A)]

## Eligible Activities

- Funds made available under this program shall be used to pay for—
  - transportation planning, research, engineering, preventive maintenance, rehabilitation, restoration, [**NEW**] **context-sensitive solutions**, construction, and reconstruction of Federal lands access transportation facilities located on or adjacent to, or that provide access to, Federal land, and—
    - adjacent vehicular parking areas, [**NEW**] **including interpretive panels in or adjacent to those areas**;
    - acquisition of necessary scenic easements and scenic or historic sites;
    - provisions for pedestrians and bicycles;
    - environmental mitigation in or adjacent to Federal land to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity;
    - construction and reconstruction of roadside rest areas, including sanitary and water facilities;
    - [**NEW**] **contextual wayfinding markers**;
    - [**NEW**] **landscaping**;
    - [**NEW**] **cooperative mitigation of visual blight, including screening or removal**; and
    - other appropriate public road facilities, as determined by the Secretary;
  - operation and maintenance of transit facilities; and
  - any transportation project eligible for assistance under title 23, United States Code, that is within or adjacent to, or that provides access to, Federal land. [§ 11113(b)(1); 23 U.S.C. 204(a)(1)]

## Federal Share

- **[NEW]** Up to 100% [§ 11113(a)(1); 23 U.S.C. 201(b)(7)(B)]

## **Program Features**

BIL continues all requirements that applied to FLAP under the FAST Act, with the following changes.

### Alternative Contracting Methods

- For FLAP funds and under certain conditions, BIL allows the Secretary to use alternative contracting methods on behalf of Federal Land Management Agencies. [11305(a); 23 U.S.C. 201(f)]

### Native Plant Materials

- Requires entities carrying out FLAP projects to consider, to the maximum extent practicable, the use of locally adapted native plant materials and designs that minimize runoff and heat generation. [§ 11113(b)(2); 23 U.S.C. 204(a)(6)]

### Efficient Implementation of the National Environmental Policy Act (NEPA)

- FHWA may prepare an environmental document (an environmental impact statement, environmental assessment, categorical exclusion, or other NEPA document) pursuant to FHWA's NEPA implementing procedures if requested by the project sponsor (the Federal Land Management Agency (FLMA) that seeks or receives funds under title 23, U.S.C., for a project authorized under the FLTP or FLAP program), and if all areas of analysis required by the project sponsor can be addressed. [§ 11311; 23 U.S.C. 203(e)(1) and (2)]
  - A FHWA-prepared environmental document shall address all areas of analysis required by a FLMA to the maximum extent practicable.
  - Notwithstanding any other provision of law, a FLMA shall not be required to conduct an independent evaluation of the adequacy of a FHWA-prepared environmental document.
  - In authorizing or implementing a project, a FLMA may use an environmental document prepared by FHWA for a project addressing the same or substantially the same action to the same extent that the FLMA could adopt or use a document previously prepared by another Federal agency. [§ 11311; 23 U.S.C. 203(e)(3)]
- The project sponsor may use a categorical exclusion (CE) from FHWA's implementing regulations if –
  - the project sponsor makes a determination, in consultation with FHWA, that the CE applies to the project;
  - the project satisfies the conditions for a CE under NEPA; and
  - the use of the CE does not conflict with the implementing regulations of the project sponsor, except for any list of the project sponsor that designates CEs. [§ 11311; 23 U.S.C. 203(e)(4)]
- The Secretary shall assist the FLMA with all design and mitigation commitments made jointly by the Secretary and the project sponsor in any environmental document prepared by the Secretary in accordance with this subsection. [§ 11311; 23 U.S.C. 203(e)(5)]

### **Additional Information and Assistance**

- For more information about the Federal Lands Access Program, visit: [Office of Federal Lands | FHWA \(dot.gov\)](https://www.fhwa.dot.gov/federal-lands/).
- To contact the Federal Lands Highway Division for your State, visit: <https://highways.dot.gov/federal-lands/about/contacts>.
- For general assistance related to BIL, visit: [https://www.fhwa.dot.gov/bipartisan-infrastructure-law/technical\\_support.cfm](https://www.fhwa.dot.gov/bipartisan-infrastructure-law/technical_support.cfm).