

Fixing America's Surface Transportation (FAST) Act
Appalachian Development Highway System Questions & Answers
March 3, 2016

Question 1: Did the FAST Act make changes to the Appalachian Development Highway Program?

Answer 1: Yes. Section 1435 of the FAST Act revised the Federal share for the cost of constructing highways and access roads on the Appalachian Development Highway System (ADHS). States may select a Federal share up to 100 percent. Therefore, they may at their discretion select a Federal share less than 100 percent. Section 1435 also extended the Federal share for the cost of constructing highways and access roads on the ADHS from FY 2021 to FY 2050.

Question 2: When can States take advantage of the revision in the Federal share for constructing highways and access roads on the ADHS?

Answer 2: When using ADHS funds or other apportioned funds, States can request a Federal share consistent with Section 1435 for constructing highways and access roads on the ADHS on all new authorizations after October 1, 2015, the effective date of the FAST Act. However the Federal share of projects authorized between October 1, 2015, and passage of the FAST Act may not change except as allowed by 23 CFR 630.106(f)(2).

Question 3: Can States apply toll credits to fund the non-Federal share on an ADHS project?

Answer 3: Yes, but since States may also select a Federal share up to 100 percent for the cost of constructing highways and access roads on the ADHS, the use of toll credits may not be necessary. States can maximize the use of toll credits by applying the toll credits to projects that require a non-Federal matching share such as reconstruction or rehabilitation projects on the ADHS, where use of toll credits would satisfy applicable matching requirements.

Question 4: Are all projects on highways and access roads on the ADHS that use non-ADHS Federal funds eligible at up to 100 percent funding?

Answer 4: No. Section 1528 of MAP-21, as amended by the FAST Act, cross references the cost of construction on and access to the ADHS under the Appalachian Regional Development Act (40 U.S.C. 14501). Only projects that contribute to the completion of the ADHS, as identified in the latest approved Cost to Complete Estimate, are eligible for up to 100 percent Federal funding when using ADHS or other apportioned funds, or funds specifically designated for an ADHS cost to complete project in FY 2012 or a prior fiscal year as provided in section 1528(b). Work to repair, extend the life of, or modify completed segments of the ADHS is not eligible for up to 100 percent Federal share. Additionally, an ADHS section that was listed as a non-participating section in the latest approved Cost to Complete Estimate might be eligible for Federal-aid with the National Highway Performance Program (NHPP) or Surface Transportation Block Grant (STBG) Program funds, but only at the Federal share specified under 23 U.S.C. 120.

Question 5: Will additional special obligation limitation be provided to cover the unobligated ADHS balances?

Answer 5: No. ADHS funds have a special no year obligation limitation that is available until used. No additional special obligation limitation is provided to cover the unobligated balances of ADHS funds above the special obligation limitation provided prior to MAP-21. States with insufficient special ADHS limitation must use formula obligation limitation.

Question 6: Can NHPP funds be used for construction of the ADHS system and local access roads?

Answer 6: NHPP funds may be used for construction of ADHS routes that are also on the National Highway System. Typically, local access roads are not on the NHS and would not be eligible for NHPP funds. However there may be situations where the local access project includes work on the NHS, such as at an intersection, in which case that portion of the project may be eligible for NHPP funds.

Question 7: Can STBG funds be used for construction of the ADHS system and local access roads?

Answer 7: Yes. Construction of ADHS routes and local access roads on the ADHS continues to be eligible for funding (23 U.S.C. 133(b)(1)(A)).

Question 8: Are there limitations on the amount of STBG or ADHS funds that can be used for local access roads?

Answer 8: MAP-21, as amended by the FAST Act, did not set limits on the amount of STBG funds that could be used for local access road projects. However, the Appalachian Regional Commission (ARC) may set limits on the amount of ADHS funds that can be spent on local access roads under its authority from 40 U.S.C. 14501. The ARC last updated these limits on November 28, 2012.

Question 9: Will the FHWA division offices be required to provide full oversight to the ADHS, regardless of funding?

Answer 9: The Secretary shall retain full oversight responsibilities for the design and construction of all Appalachian development highways under section 14501 of title 40, in accordance with 23 U.S.C. 106(g)(5)(B). ADHS projects are considered Projects of Division Interest (PoDI) as described in the PoDI/PoCI Guidance dated 5/4/2015 (<http://www.fhwa.dot.gov/federalaid/stewardship/140328.cfm>). Per this guidance, FHWA division offices are to develop and execute stewardship and oversight plans that identify risk-based activities. Based upon the full oversight requirement applicable to ADHS projects, the stewardship and oversight plans should also identify the required project approval actions. These plans can be done on a project specific or on a programmatic basis per the guidance.

Question 10: How will Section 1436 of the FAST Act dealing with the Appalachian Regional Development Program's high-speed broadband development initiative be administered?

Answer 10: This program is administered by the Appalachian Regional Commission (ARC). Questions relating to implementation of this provision should be directed to the ARC.