



U.S. Department  
of Transportation

Federal Highway  
Administration

# Memorandum

Subject: **INFORMATION**: Surface Transportation  
Block Grant Program (STBG)  
Implementation Guidance (Revised by the  
FAST Act)

Date: March 7, 2016

/s/ Signed by Pete Stephanos

From: Walter C. Waidelich, Jr.  
Associate Administrator for Infrastructure

In Reply Refer To:  
HIPA-10

To: Division Administrators  
Directors of Field Services

On December 4, 2015, the President signed the Fixing America's Surface Transportation (FAST) Act into law (Pub. L. 114-94). The FAST Act amended the Surface Transportation Program (STP) contained in 23 U.S.C. 133, and changed the program name to the Surface Transportation Block Grant Program (STBG). The attached STBG Implementation Guidance provides information on funding, eligible activities, and requirements of the STBG.

This memorandum supersedes the "Revised STP Implementation Guidance," dated July 21, 2014. Separate guidance is being developed for "transportation alternatives" eligibilities contained in 23 U.S.C. 133(h). The effective date of this Implementation Guidance is October 1, 2015. The STBG requirements in effect on October 1, 2015, will apply to all related funding obligated on or after that date, whether funded from new STBG authorizations or STP funds authorized in previous years.

This document will be accessible on the FAST Act Website <http://www.fhwa.dot.gov/fastact/> and through the Federal Highway Administration's Policy and Guidance Center <https://www.fhwa.dot.gov/pgc/>.

For questions about the STBG, except for 23 U.S.C. 133(h), please contact Mr. David Bartz (512-536-5906) or Mr. Peter Kleskovic (202-366-4652) of the Office of Program Administration. For questions about the Transportation Alternatives Set-Aside under 23 U.S.C. 133(h), please contact Mr. Christopher Douwes (202-366-5013) of the Office of Human Environment.

Attachment

Surface Transportation Block Grant Program (STBG) Implementation Guidance  
March 7, 2016

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## A. PROGRAM PURPOSE

The Fixing America’s Surface Transportation (FAST) Act converts the long-standing Surface Transportation Program (STP) into the Surface Transportation Block Grant Program (STBG) acknowledging that this program has the most flexible eligibilities among all Federal-aid highway programs and aligning the program’s name with how the Federal Highway Administration (FHWA) has historically administered it. The STBG promotes flexibility in State and local transportation decisions and provides flexible funding to best address State and local transportation needs. (FAST Act § 1109(a))

## B. GOVERNING AUTHORITIES

1. Section 1101 of the FAST Act authorizes funds for the STBG.
2. Section 1104 of the FAST Act provides for apportionment of funds under 23 U.S.C. 104.
3. Section 1109 of the FAST Act amends 23 U.S.C. 133.
4. Section 1111 of the FAST Act amends 23 U.S.C. 144 for Bundling of Bridge Projects.
5. Section 1407 of the FAST Act amends 23 U.S.C. 133 for an additional eligibility.
6. Section 1437 of the FAST Act provides for Border State Infrastructure.
7. Section 1446 of the FAST Act amends title 23, United States Code, for technical corrections.

## C. FUNDING

1. **Authorization Levels:** Estimated annual STBG funding under the FAST Act is:

<b>Estimated Annual STBG Funding</b>	
FY 2016	\$11.162 B
FY 2017	\$11.424 B
FY 2018	\$11.667 B
FY 2019	\$11.876 B
FY 2020	\$12.136 B

23 U.S.C. 133(h) sets aside funding for projects and activities that were described in 23 U.S.C. 101(a)(29) or 213 before the enactment of the FAST Act. FHWA is calling this set aside the “Transportation Alternatives Set-Aside” or “TA Set-Aside.” The TA Set-Aside guidance is accessible on the FAST Act Web site (<http://www.fhwa.dot.gov/fastact/>) and through the [FHWA Policy and Guidance Center](#).

The FAST Act distributes formula funds annually based on the amounts of formula funds each State received under the Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21) Act. The methodology for making the apportionments under 23 U.S.C. 104 is discussed in [FHWA Notice 4510.802](#).

From the State’s STBG apportionment, the following sums are to be set aside:

- a. 2 percent for State Planning and Research (SPR). (23 U.S.C. 505, as amended by the FAST Act)
- b. Bridges not on Federal-aid highways (“off-system bridges”). See [Section G](#) below.
- c. Border State Infrastructure projects. [See Section I](#) below.
- d. TA Set-Aside under 23 U.S.C. 133(h). See separate [TA Set-Aside](#) guidance.

The Fiscal Management Information System Program Codes for these STBG funds are as follows:

<b>Program Code</b>	<b>Program Description</b>	<b>Statutory Reference</b>
Z240	Surface Transportation Program (STBG) Flex	23 U.S.C. 133(d)(1)(B)
Z230	STBG – Urbanized Areas With Population Over 200K	23 U.S.C. 133(d)(1)(A)(i)
Z231	STBG – Areas with Population Over 5K to 200K	23 U.S.C. 133(d)(1)(A)(iii)
Z232	STBG – Areas with Population 5K and Under	23 U.S.C. 133(d)(1)(A)(ii)
Z233	STBG Off-System Bridge	23 U.S.C. 133(f)(2)
Z234	Special Rule for Areas of 5,000 or Less Population	23 U.S.C. 133(g)(2)
Z500	STBG – Border State Infrastructure	FAST 1437(a)
Z300	TA Set-Aside – Flex	23 U.S.C. 133(h)(2)
Z301	TA Set-Aside – Urbanized Areas With Population Over 200K	23 U.S.C. 133(h)(2)
Z302	TA Set-Aside – Areas with Population Over 5K to 200K	23 U.S.C. 133(h)(2)
Z303	TA Set-Aside – Areas with Population 5K and Under	23 U.S.C. 133(h)(2)
Z304	TA Set-Aside – Large Urbanized areas 50% for any STBG purpose	23 U.S.C. 133(h)(6)(B)
Z940	Recreational Trails Program (RTP)	23 U.S.C. 133(h)(5)
Z941	Return of 1% for RTP Administration	23 U.S.C. 133(h)(5)(B)
ZR10	State RTP Administration	23 U.S.C. 206(d)(2)(H)
ZR20	RTP Educational Programs	23 U.S.C. 206(d)(2)(G)

2. **Period of Availability:** STBG funds are contract authority. STBG obligations are reimbursed from the Highway Account of the Highway Trust Fund. STBG funds are available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized. Thus funds are available for obligation for up to 4 years. (23 U.S.C. 118)

STP and TAP funds from previous authorizations continue to be available for their original period of availability, but new obligations of STP and TAP funds must follow the requirements and eligibilities of 23 U.S.C. 133, as amended by the FAST Act.

3. **Obligation Limitation:** STBG funds are subject to the annual obligation limitation imposed on the Federal-aid highway program.
4. **Federal Share:** The Federal share is governed by 23 U.S.C. 120. It is generally 80 percent. The Federal share for projects on the Interstate System is 90 percent unless the project adds lanes that are not high-occupancy-vehicle or auxiliary lanes. For projects that add single occupancy vehicle capacity, that portion of the project will revert to the 80 percent level. An upward sliding scale adjustment is available to States having public lands (<http://www.fhwa.dot.gov/legsregs/directives/notices/n4540-12.cfm>). States may use a lower Federal share on Federal-aid projects as provided in 23 U.S.C. 120.

Certain types of improvements, predominantly safety improvements, listed in 23 U.S.C. 120(c)(1) may have a Federal share of 100 percent. Use of this provision is limited to 10 percent of the total funds apportioned to a State under 23 U.S.C. 104. See FHWA Memo, "Increased Federal Share under 23 U.S.C. 120(c)(1)," dated November 25, 2014 (<http://www.fhwa.dot.gov/federalaid/141125.cfm>).

23 U.S.C. 120(f) allows funds apportioned under 23 U.S.C. 104 to be used at 100 percent Federal share for Federal-aid highways within Indian reservations, national parks, and monuments.

The Federal share for workforce development, training, and education activities carried out with STBG funds under 23 U.S.C. 504(e)(1)(A)-(F) is 100 percent. Under 23 U.S.C. 504(b)(3)(A)(ii), STBG funds can be used as the non-Federal share to match the 50 percent Federal share for projects funded by the Local Technical Assistance Program.

The Federal share for projects located on toll roads and subject to the provisions of 23 U.S.C. 129 is limited to 80 percent.

Section 1435 of the FAST Act amended Section 1528 of MAP-21 concerning the Federal share for Appalachian Development Highway System (ADHS) projects as provided in 40 U.S.C. 14501. For FY 2012 through 2050, the Federal share for local access roads and ADHS projects that contribute to the completion of the ADHS and are included in the latest approved Cost to Complete Estimate, may be up to 100 percent, as determined by the State. Work on completed segments of the ADHS or a section that was listed as ineligible in the latest approved Cost to Complete Estimate could be eligible for the National Highway Performance Program (NHPP) or STBG funds but only at a Federal share specified in 23 U.S.C. 120.

Projects incorporating Innovative Project Delivery as described in 23 U.S.C. 120(c)(3) may be increased by up to 5 percent of the total project cost not to exceed a 100 percent Federal share, subject to limitations in 23 U.S.C. 120(c)(3). (FAST Act §1408(a))

5. **Transferability of STBG Funds:** 23 U.S.C. 126 (Transferability of Federal-aid highway funds) provides for and has conditions on the transfer of funds apportioned under 23 U.S.C. 104(b). Transferred funds are to be obligated for the same purposes and to meet the same requirements of the category to which they were transferred. See FHWA Order 4551.1, “Fund Transfers to Other Agencies and Among Title 23 Programs,” dated August 12, 2013 (<http://www.fhwa.dot.gov/legregs/directives/orders/45511.cfm>).

The following STBG funds have transferability restrictions:

- a. Funds suballocated under 23 U.S.C. 133(d)(1)(A) may not be transferred. See [Section E](#) below.
- b. Funds suballocated under 23 U.S.C. 133(h) have transfer restrictions. See separate [TA Set-Aside](#) guidance.

## D. ELIGIBILITY

### 1. Eligible Projects and Activities:

- a. Location of Projects (23 U.S.C. 133(c)): STBG projects may not be undertaken on a road functionally classified as a local road or a rural minor collector unless the road was on a Federal-aid highway system on January 1, 1991, except—
  - (1) For a bridge or tunnel project (other than the construction of a new bridge or tunnel at a new location);
  - (2) For a project described in 23 U.S.C. 133(b)(4)-(11) and described below under “Eligible Activities” (b)(4) through (11);
  - (3) For transportation alternatives projects described in 23 U.S.C. 101(a)(29) before enactment of the FAST Act (these are described in 23 U.S.C. 133(h) and in separate TA Set-Aside guidance.); and
  - (4) As approved by the Secretary.
- b. Eligible Activities (23 U.S.C. 133(b)): Subject to the location of projects requirements in paragraph (a), the following eligible activities are listed in 23 U.S.C. 133(b):
  - (1) Construction, as defined in 23 U.S.C. 101(a)(4), of the following:
    - i. Highways, bridges, and tunnels, including designated routes of the Appalachian development highway system and local access roads under 40 U.S.C. 14501;
    - ii. Ferry boats and terminal facilities eligible under 23 U.S.C. 129(c);
    - iii. transit capital projects eligible under chapter 53 of title 49, United States Code;

- iv. Infrastructure-based intelligent transportation systems capital improvements, including the installation of vehicle-to-infrastructure communication equipment;
  - v. Truck parking facilities eligible under Section 1401 of MAP-21 (23 U.S.C. 137 note); and
  - vi. Border infrastructure projects eligible under Section 1303 of SAFETEA-LU (23 U.S.C. 101 note).
- (2) Operational improvements and capital and operating costs for traffic monitoring, management, and control facilities and programs. Operational improvement is defined in 23 U.S.C. 101(a)(18).
  - (3) Environmental measures eligible under 23 U.S.C. 119(g), 328, and 329, and transportation control measures listed in Section 108(f)(1)(A) (other than clause (xvi) of that section) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A)).
  - (4) Highway and transit safety infrastructure improvements and programs, including railway-highway grade crossings.
  - (5) Fringe and corridor parking facilities and programs in accordance with 23 U.S.C. 137 and carpool projects in accordance with 23 U.S.C. 146. Carpool project is defined in 23 U.S.C. 101(a)(3).
  - (6) Recreational trails projects eligible under 23 U.S.C. 206, pedestrian and bicycle projects in accordance with 23 U.S.C. 217 (including modifications to comply with accessibility requirements under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)), and the Safe Routes to School Program under Section 1404 of SAFETEA-LU (23 U.S.C. 402 note).
  - (7) Planning, design, or construction of boulevards and other roadways largely in the right-of-way of former Interstate System routes or other divided highways.
  - (8) Development and implementation of a State asset management plan for the National Highway System (NHS) and a performance-based management program for other public roads.
  - (9) Protection (including painting, scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) for bridges (including approaches to bridges and other elevated structures) and tunnels on public roads, and inspection and evaluation of bridges and tunnels and other highway assets.
  - (10) Surface transportation planning programs, highway and transit research and development and technology transfer programs, and workforce development, training, and education under chapter 5 of title 23, United States Code.
  - (11) Surface transportation infrastructure modifications to facilitate direct intermodal interchange, transfer, and access into and out of a port terminal.
  - (12) Projects and strategies designed to support congestion pricing, including electronic toll collection and travel demand management strategies and programs.
  - (13) Upon request of a State and subject to the approval of the Secretary, if Transportation Infrastructure Finance and Innovation Act (TIFIA) credit assistance is approved for an STBG-eligible project, then the State may use

STBG funds to pay the subsidy and administrative costs associated with providing Federal credit assistance for the projects.

- (14) The creation and operation by a State of an office to assist in the design, implementation, and oversight of public-private partnerships eligible to receive funding under title 23 and chapter 53 of title 49, United States Code, and the payment of a stipend to unsuccessful private bidders to offset their proposal development costs, if necessary to encourage robust competition in public-private partnership procurements.
- (15) Any type of project eligible under 23 U.S.C. 133 as in effect on the day before the FAST Act was enacted. Among these are:
  - i. Replacement of bridges with fill material;
  - ii. Training of bridge and tunnel inspectors;
  - iii. Application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing compositions for bridges (and approaches to bridges and other elevated structures) and tunnels;
  - iv. Projects to accommodate other transportation modes continue to be eligible pursuant to 23 U.S.C. 142(c) if such accommodation does not adversely affect traffic safety;
  - v. Transit capital projects eligible for assistance under chapter 53 of title 49, United States Code, including vehicles and facilities (publicly or privately owned) that are used to provide intercity passenger bus service;
  - vi. Approach roadways to ferry terminals to accommodate other transportation modes and to provide access into and out of the ports;
  - vii. [Transportation alternatives](#) previously described in 23 U.S.C. 101(a)(29) and described in 23 U.S.C. 213;
  - viii. Projects relating to intersections having disproportionately high accident rates, high levels of congestion (as evidenced by interrupted traffic flow at the intersection and a level of service rating of “F” during peak travel hours, calculated in accordance with the Highway Capacity Manual), and are located on a Federal-aid highway;
  - ix. Construction and operational improvements for any minor collector if the minor collector and the project to be carried out are in the same corridor and in proximity to an NHS route; the construction or improvements will enhance the level of service on the NHS route and improve regional traffic flow; and the construction or improvements are more cost-effective, as determined by a benefit-cost analysis, than an improvement to the NHS route;
  - x. Workforce development, training, and education activities discussed in 23 U.S.C. 504(e);
  - xi. Advanced truck stop electrification systems. Truck stop electrification system is defined in 23 U.S.C. 101(a)(32);
  - xii. Installation of safety barriers and nets on bridges, hazard eliminations, projects to mitigate hazards caused by wildlife;
  - xiii. Electric vehicle and natural gas vehicle infrastructure in accordance with 23 U.S.C. 137;

- xiv. Data collection, maintenance, and integration and the costs associated with obtaining, updating, and licensing software and equipment required for risk-based asset management and performance based management, and for similar activities related to the development and implementation of a performance based management program for other public roads;
- xv. Construction of any bridge in accordance with 23 U.S.C. 144(f) that replaces any low water crossing (regardless of the length of the low water crossing); any bridge that was destroyed prior to January 1, 1965; any ferry that was in existence on January 1, 1984; or any road bridge that is rendered obsolete as a result of a Corps of Engineers flood control or channelization project and is not rebuilt with funds from the Corps of Engineers. Not subject to the Location of Project requirement in 23 U.S.C. 133(c); and
- xvi. Actions in accordance with the definition and conditions in 23 U.S.C. 144(g) to preserve or reduce the impact of a project on the historic integrity of a historic bridge if the load capacity and safety features of the historic bridge are adequate to serve the intended use for the life of the historic bridge. Not subject to the Location of Project requirement in 23 U.S.C. 133(c).

2. **Applicability of Planning Requirements (23 U.S.C. 133(d)(5)):** Projects must be identified in the Statewide Transportation Improvement Program (STIP)/Transportation Improvement Program (TIP) and be consistent with the Long-Range Statewide Transportation Plan and the Metropolitan Transportation Plan(s). When obligating suballocated funding (discussed below), the State must coordinate with relevant metropolitan planning organizations (MPO) or rural planning organizations (23 U.S.C. 133(d)(3)). Programming and expenditure of funds for projects shall be consistent with 23 U.S.C. 134 and 135.

STBG projects for eligible planning purposes must be reflected in the statewide SPR work program or Metropolitan Unified Planning Work Program. Further, these projects must be in the STIP/TIP unless the State DOT or MPO agree that they may be excluded. (23 CFR 420.119(e))

3. **Applicability of 23 U.S.C. 217(i) for Bicycle Projects:** 23 U.S.C. 217(i) requires that bicycle facilities “be principally for transportation, rather than recreation, purposes.” However, 23 U.S.C. 133(b)(6) and 133(h) list “recreational trails projects” as eligible activities under STBG. Therefore, the requirement in 23 U.S.C. 217(i) does not apply to recreational trails projects (including for bicycle use) using STBG funds. Section 217(i) continues to apply to bicycle facilities other than trail-related projects, and Section 217(i) continues to apply to bicycle facilities using other Federal-aid highway program funds (e.g., NHPP, Highway Safety Improvement Program, and Congestion Mitigation and Air Quality Improvement Program). The transportation requirement under Section 217(i) is applicable only to bicycle projects; it does not apply to any other trail use or transportation mode.

**E. SUBALLOCATION (23 U.S.C. 133(d))**

1. After setting aside funds for SPR and the TA Set-Aside, a percentage of a State’s STBG apportionment is suballocated to areas of the State based on their relative share of the State’s population. This percentage varies from 51 percent in 2016 to 55 percent in 2020, as shown in the table below. The remainder of STBG funds may be used anywhere in the State.

<b>STBG suballocation based on relative share of State population</b>	
<b>Fiscal Year</b>	<b>Percent Suballocated</b>
2016	51%
2017	52%
2018	53%
2019	54%
2020	55%

2. The suballocated funds are divided into three categories:
  - a. Urbanized areas of the State with a population over 200,000. These funds are distributed among the individual areas based on their relative share of the population. The State and the relevant MPOs may jointly apply to the FHWA division office for permission to base the distribution on other factors. These funds may be obligated in the metropolitan area established under 23 U.S.C. 134 that encompasses the urbanized area. (23 U.S.C. 133(d)(2))

Over the period of FYs 2016-2020, each State must provide obligation limitation to the urbanized areas with a population over 200,000 for use with their suballocated STBG funds. Over that period, the amount of obligation limitation provided to each urbanized area must be equal to the amount obtained by multiplying the total amount of contract authority suballocated to the area by the ratio of the total amount of obligation authority distributed to the State for the 5-year period to the total of apportionments to the State for that period (excluding amount exempt from the limitation). Each State, each affected MPO, and the Secretary of transportation must jointly ensure compliance with this requirement. (23 U.S.C. 133(e))

- b. Areas of the State with a population of 5,000 or less. See also [Section F](#) below.
  - c. Areas of the State with a population of 5,001 to 200,000. Prior to obligating funds attributed to an area of this type, the State must consult with the regional transportation planning organizations that represent the area, if there are any. (23 U.S.C. 133(d)(3))

**F. SPECIAL RULE FOR AREAS OF 5,000 OR LESS POPULATION (23 U.S.C. 133(g))**

In each of FYs 2016 through 2020, a State may obligate up to 15 percent of the STBG amounts suballocated for that year for use in areas with a population of 5,000 or less on roads

functionally classified as minor collectors. For areas of 5,000 or less, the construction of a new bridge or tunnel at a new location on a rural minor collector is eligible for STBG funding, subject to the overall 15 percent limit. The Secretary may suspend this special rule with respect to a State if the FHWA division office determines that this authority is being used excessively by the State.

#### **G. BRIDGES NOT ON FEDERAL-AID HIGHWAYS (23 U.S.C. 133(f))**

1. An off-system bridge is a highway bridge located on a public road that is not a Federal-aid highway. 23 U.S.C. 133(f)(2)(A) sets aside from the STBG an amount equal to 15 percent of Highway Bridge Program funds apportioned to the State for FY 2009 for activities for off-system bridges. Funding pursuant to this provision is provided to the States with a specific program code, as shown in the program code table in this guidance. Eligible activities for the set aside for off-system bridges are replacement (including replacement with fill material), rehabilitation, preservation, protection (including painting, scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) and application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing compositions for bridges (and approaches to bridges and other elevated structures) and tunnels on public roads of all functional classifications, including any such construction or reconstruction necessary to accommodate other transportation modes.<sup>1</sup> A State may choose to expend funds in excess of the off-system set-aside.

The FHWA Administrator may reduce the requirement for expenditures for off-system bridges if the FHWA Administrator, after consultation with State and local officials, determines that the State has inadequate needs to justify the expenditure. See the following memoranda:

- a. Special Rule for Bridges Not on Federal-Aid Highways (Surface Transportation Program of MAP-21), dated October 17, 2012 (<http://www.fhwa.dot.gov/bridge/121017.cfm>); and
  - b. Highway Bridge Program, Off-System Bridges - Reduction of Expenditures, dated June 11, 2007 (<http://www.fhwa.dot.gov/bridge/070611.cfm>).
2. The credit for bridges not on Federal-aid highways under 23 U.S.C. 133(f)(3) is continued. Up to 80 percent of the construction cost incurred from bridge replacement and rehabilitation projects that are wholly funded from State and local sources and are not on Federal-aid highways may be credited to the non-Federal share of Federal-aid bridge projects. Credits may be earned if the “source” bridge project is:
    - a. Non-controversial;

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<sup>1</sup> In this case, 23 U.S.C. 133(f) is referring to the list of eligible activities in 23 U.S.C. 133(b)(2) as in effect before enactment of the FAST Act.

- b. Certified by the State to have been carried out in accordance with all standards applicable to such projects under 23 U.S.C. 133; and
- c. Determined by the Secretary upon completion to be no longer a deficient bridge.

The “source” bridge project is not required to satisfy typical Federal-aid requirements, such as National Environmental Policy Act clearance and the Uniform Relocation Assistance and Real Property Acquisition Policies Act. Additionally, the phrase “applicable standards” refers to State laws, regulations, directives, safety standards, and construction standards.

#### **H. BUNDLING OF BRIDGE PROJECTS (23 U.S.C. 144(j))**

This provision encourages States to save costs and time by bundling multiple eligible bridges into one project using STBG or NHPP funds under one project agreement.

By law, each bridge project to be included in a bundle to be funded from STBG funds must:

1. Have the same financial characteristics, such as the same funding category or subcategory and the same Federal share;
2. Be eligible under 23 U.S.C. 133;
3. Be included as a single bundled project in the applicable TIP or STIP; and
4. Be awarded to a single consultant or contractor pursuant to a contract for engineering and design or construction between the contractor and an eligible entity.

Bundled bridge projects carried out under 23 U.S.C. 144(j) are exempt from the payback provisions of 23 U.S.C. 102(b).

#### **I. BORDER STATE INFRASTRUCTURE (FAST Act § 1437)**

Section 1437 of the FAST Act allows the Governor of a State that shares a land border with Canada or Mexico to designate for each fiscal year not more than 5 percent of STBG funds made available for any area of the State under 23 U.S.C. 133(d)(1)(B), for border infrastructure projects eligible under Section 1303 of SAFETEA-LU (Coordinated Border Infrastructure Program). Projects must meet the requirements of Section 1303. Before making such designation, the Governor must certify that the designation is consistent with transportation planning requirements under title 23, United States Code. Funding pursuant to this provision is provided to applicable States with a specific program code, as shown in the program code table in this guidance. Note that border infrastructure projects may be funded with any STBG funds, not just from the set-aside designated by the Governor. See the FAST Act’s Questions and Answers on Border State Infrastructure (<http://www.fhwa.dot.gov/hep/guidance/section1437.cfm>).

#### **J. TREATMENT OF PROJECTS (23 U.S.C. 133(i))**

Projects funded under 23 U.S.C. 133, including projects carried out under the TA Set-Aside under 23 U.S.C. 133(h), but excluding [Recreational Trails Program](#) (RTP) projects carried out under 23 U.S.C.133(h)(5), shall be treated as projects on a Federal-aid highway.

This subjects all STBG projects (excluding the RTP set-aside) to, among other things, [Davis-Bacon Act prevailing wage requirements](#) and other Federal-aid requirements (e.g., [Buy America](#), planning, environmental review, letting, etc.).

However, Section 1524 of MAP-21 remains in effect. It provided exceptions to certain requirements regarding pay rates and contracting requirements for projects using qualified youth service or conservation corps. This provision requires the DOT/FHWA to “encourage the States and regional transportation planning agencies to enter into contracts and cooperative agreements with qualified youth service or conservation corps. . . . to perform appropriate projects eligible under Sections 162, 206, [former] 213, and 217 of title 23, United States Code, and under Section 1404 of the SAFETEA-LU.” These projects include scenic byways, recreational trails, transportation alternatives, bicycle and pedestrian, and safe routes to school. Section 1524 of MAP-21 applies to any projects eligible under these sections, including projects developed with other Federal-aid highway program funds. See the MAP-21 Questions and Answers (<http://www.fhwa.dot.gov/map21/qandas/qayscc.cfm>) and Youth Workforce Development Resources ([http://www.fhwa.dot.gov/environment/transportation\\_alternatives/guidance/youth\\_workforcedev.cfm](http://www.fhwa.dot.gov/environment/transportation_alternatives/guidance/youth_workforcedev.cfm))

To the extent the requirements of 23 U.S.C. 133 relating to Treatment of Projects conflicts with the express provisions in Section 1524, the provisions in Section 1524 prevail because they are more specific than the general provision of 23 U.S.C. 133(i).

#### **K. TRANSPORTATION ALTERNATIVES SET-ASIDE (23 U.S.C. 133(h))**

See the “Transportation Alternatives Set-Aside” or “TA Set-Aside” guidance on the FAST Act website (<http://www.fhwa.dot.gov/fastact/>) and through the [FHWA Policy and Guidance Center](#).