AASHTO

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Stephanie Pollack
Deputy Administrator
Federal Highway Administration
1200 New Jersey Avenue SE
Washington, D.C. 20590

Subject: FHWA Policy on Using Bipartisan Infrastructure Law Resources to Build a Better America

Dear Deputy Administrator Pollack:

The American Association of State Highway and Transportation Officials (AASHTO) welcomes the opportunity to provide comments related to the Federal Highway Administration's (FHWA) recently released "Build a Better America" policy guidance (guidance) related to implementation of the Infrastructure Investment and Jobs Act (IIJA). AASHTO represents the state Departments of Transportation in the 50 states, the District of Columbia and Puerto Rico. Given the state-administered and federally-supported nature of the Federal-aid Highway Program, state DOTs are in a unique position to provide input on the guidance.

Based on our conversation earlier this month, AASHTO and its members greatly appreciate FHWA's acknowledgment of state DOTs' notable progress on key policy priorities including system preservation, safety, climate change and resilience, innovation, equity, and efficient use of federal funds. We also understand that it is your intent that this guidance support the evolution and modernization of FHWA itself to better reflect state DOTs' leadership in and commitment to policy priorities articulated in the guidance. As you utilize this guidance to inform FHWA's implementation of the Federal-aid Highway Program under the IIJA, emphasis should be placed on FHWA staff supporting states in advancing these policy priorities. Given the outsized public expectations, these much-needed programs and projects must be advanced expeditiously. For this to occur we must work together and utilize existing planning processes.

AASHTO also appreciates FHWA's acknowledgement that this guidance does not suggest that the agency has the authority to require states to invest federal formula funds in certain types of projects nor restrict them from investing in other types of projects. While the legislative process that led to the IIJA was certainly unconventional, the enacted legislation—and the Congressional intent regarding the Federal-aid Highway Program over the next five years—provides state DOTs with flexibility in how investment decisions are made with formula dollars to meet each state's unique mobility and accessibility needs. At the end of the day, collective efforts of states will go a long way in achieving the outcomes that are fundamentally agreed upon between FHWA and state DOTs.

As this FHWA guidance has sparked an important policy conversation around implementation of the IIJA, we would like to offer the following additional perspectives.

<u>Policy Advances Made by States DOTs</u>

States very much share FHWA's policy priorities outlined in the guidance. Our recent examination shows that state DOTs have been and remain leaders in the areas of safety, active transportation, resilience, transit, and passenger rail. AASHTO's Strategic Plan, adopted in 2020, demonstrates a long term commitment by our members to values, goals, objectives, and strategies to support our organization's vision of "providing improved quality of life through leadership in transportation."

A specific area of state DOT leadership is in "complete streets." According to the National Complete Streets Coalition (NCSC), 35 states plus Puerto Rico have adopted "Complete Street" policies and additional states are carrying out programs producing similar outcomes even if they may not necessarily refer to them as "complete streets". AASHTO Vice President Roger Millar is the former Director of the NCSC and has been a member of the organization's steering committee since 2015.

State DOTs also recognize the transportation industry is responsible for the largest share of greenhouse gas emissions in the United States. In response, thirty-four states have released a climate action plan or are in the process of revising or developing one according to the Center for Climate and Energy Solutions.

State DOTs have made a substantial and meaningful transition from the road builders of the Interstate era to be key stewards of system preservation, multimodal mobility, and innovation—and will continue to do so with our federal and local government partners.

Overall and Relative Impact of Federal Funding

In the transportation sector, federal dollars play a relatively small role relative to total investment made in the United States. According to latest data from the Congressional Budget Office, only 22.3 percent of total transportation funding for capital, operations, and maintenance activities comes from the federal government. The remainder, or 76.7 percent, represents state and local government funding.

We also note that the characteristic of each state's transportation system can be quite different, as is the ownership that makes up the different facilities on that system. Nationwide, state DOTs own 18.8 percent of all public road miles according to FHWA's *Highway Statistics*. Yet these state-owned road miles carry a disproportionate share of volume, or 61.3 percent of all vehicle miles traveled.

The unique nature of each state's transportation system is reflected in the varying percentage of public roads owned by each individual state. West Virginia owns 88.5 percent of all roads in the state; Delaware, Virginia, North Carolina and South Carolina have similarly high levels of state-owned roadways. Conversely, Caltrans owns less than 10 percent of the public roads in California and only 6 percent of the roads in New Jersey are owned by the state.

The Federal-aid Highway Program needs to be flexible enough to reflect these varying degrees of state DOT roadway ownership. A one-size-fits-all approach would create unnecessary gaps and conflicts in meeting the various transportation challenges in each state.

Local and Off-system Investment

Viewing state investment in local and off-system projects only through the federal funding lens, such as suballocation of Surface Transportation Block Grant Program (STBGP) funds, fails to reflect the full scope of state investments made on local transportation assets. A large amount of state dollars never touch the federal ledger. According to FHWA, states collectively invested $26.7 billion of state funds for local roads and streets in 2019.

When looking only at STBGP suballocation, Washington State, for example, suballocates 39.1 percent of every Federal-aid Highway Program dollar even though the Fixing America's Surface Transportation Act requires 15.4 percent of every federal highway formula dollar to be suballocated through the STBGP.

While road capacity expansion has largely correlated with population growth, it is also important to note that most of this has not occurred on state-owned facilities. For the entire United States between 2009 and 2017, the full public road network grew by 223,494 lane-miles according to FHWA. Of this growth, only 16,665 lane-miles or 8.3 percent were on state-owned facilities. The vast majority of this increase in highway capacity occurred on locally-owned facilities—frequently on low-volume roads—to support increased travel demand related to land development entitled by local governments. These lane miles are often added without consideration of the impacts of this development on state facilities.

States fully support building local government capacity to meet their priority transportation investment needs. This includes through the use of federal and state "fund swaps" that, according to the General Accounting Office (GAO), is taking place in 15 states as of 2020. In the same report, the GAO also recognized that state DOTs and local agencies "choose to participate in fund swapping because it reduces the risk that local agencies will not comply with federal requirements, increases project flexibility and control for local agencies, and may result in project delivery time and cost savings".

Lastly, state DOTs recognize that the institutional capacity and resources necessary for eligible recipients to successfully apply for discretionary grant programs varies widely—which presents an equity issue particularly for smaller localities. Being able to access these funding opportunities matter more than ever given the sheer scope and amount of discretionary grant programs created in the IIJA. Paired with the federal government streamlining and consolidating the application processes for these grants and publishing a schedule for when each of the NOFOs will be published—and when they expect decisions to be made—state DOTs fully support reducing this barrier to discretionary grant programs for smaller eligible entities. One method to assist may be in sharing grant writing and grant administration expertise with their local partners. In addition, encouraging discretionary grant proposers to group individual projects into larger packages or programs will reduce the cost and time needed to develop individual applications. We encourage FHWA to view the state DOTs as an efficient conduit through which to engage local governments, as strong relationships already exist between state and local transportation organizations. Leveraging this kind of collaboration can help eliminate a key barrier to so many local governments interested in pursuing discretionary grants.

Asset Management and National Environmental Policy Act (NEPA)

State DOTs remain fully committed to managing existing transportation assets. This is reflected in the federally accepted transportation asset management plans (TAMP) that states develop. Each state DOT's TAMP is focused on transportation assets of national interest and reflects the unique nature of each state.

It should also be recognized that state DOTs balance many different needs, ranging from managing existing assets for the long-term, system operations, transportation demand management, strategic highway expansion, and additional capacity for other transportation modes. These various transportation options and solutions are needed to meet state and local communities' mobility and accessibility challenges.

State DOTs' investment strategies are not made in a vacuum. They must be made within the bounds of both federal requirements and the constitutional and statutory authority provided by state legislatures. Investment strategies and decisions reflect robust community engagement that informs long-range plans and transportation improvement programs that are developed with metropolitan and regional planning organizations.

Given constrained financial resources, state DOTs engage in the management of their transportation assets through the utilization of a systems process and approach. Proposals to require "Fix it First" solutions or prescribe the use of certain sources of funding for system preservation do not reflect the use of strategic planning but rather a one-size-fits-all approach to asset management. Concerted asset management efforts by every state DOT over the past decade have resulted in improved outcomes on asset condition and system operations. For example, according the National Bridge Inventory, the number of bridges in poor condition decreased by 18 percent from 2012 to 2018. Similarly, the amount of Interstate pavement in good condition increased by 10 percent according to FHWA.

How each state DOT uses its mix of funding sources for its investments varies greatly, reflecting the rich diversity and transportation needs across the country.

Multimodal Transportation and Innovation

State DOTs are proud of the progress they have been able to make in recent decades to invest in all modes of the transportation system as part of the statewide network. In 2019, state DOTs invested $20.8 billion in public transportation, compared to the federal investment of $11.3 billion. In addition, 20 state agencies provided $750 million in funding support to Amtrak, providing service to 48 percent—or almost half—of Amtrak riders system-wide. State DOTs will play a critical role in implementing generational investment in passenger rail provided under the IIJA. For civil aviation, the FAA reported that in 2020, states directly supported 4 million jobs and generated $850 billion in total economic activity.

State DOTs are also on the cutting edge of technology and innovation. Through AASHTO's collaborative "inter-committee" working groups, state DOTs are directly addressing some of the most important emerging issues in the transportation sector—such as connected and automated vehicles, electric vehicles, unmanned aerial systems, and shared mobility.

State DOTs are also developing solutions to manage broadband deployment on their properties to facilitate the use of technology interactions between motor vehicles and infrastructure. These efforts by state DOTs not only leads to greater mobility and increased safety on the nation's roadways but also provides broader access to digital resources for rural communities across the United States.

To conclude, state DOTs appreciate the enduring partnership with FHWA to deliver on the promise of the IIJA expected from the public, and express our utmost support for FHWA in its own evolution to match the commitment of state DOTs in the policy priorities identified in the guidance.

If you have any questions, please contact Joung Lee, AASHTO's Deputy Director – Chief Policy Officer, at 202-425-0969 or jlee@aashto.org.

Sincerely,

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