

- “(1) transportation planning;
- “(2) research;
- “(3) routine maintenance activities;
- “(4) structures and erosion protection unrelated to transportation and roadways;
- “(5) general reservation planning not involving transportation;
- “(6) landscaping and irrigation systems not involving transportation programs and projects;
- “(7) work performed on projects that are not included on a transportation improvement program approved by the Federal Highway Administration, unless otherwise authorized by the Secretary of the Interior and the Secretary;
- “(8) the purchase of equipment unless otherwise authorized by Federal law; or
- “(9) the condemnation of land for recreational trails.

“(f) LIMITATION ON PROJECT AMOUNTS.—Project funding shall be limited to a maximum of \$1,000,000 per application, except that funding for disaster or emergency projects shall also be limited to the estimated cost of repairing damage to the tribal transportation facility.

“(g) COST ESTIMATE CERTIFICATION.—All cost estimates prepared for a project shall be required to be submitted by the applicant to the Secretary of the Interior and the Secretary for certification and approval.

“(h) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated \$30,000,000 out of the general fund of the Treasury to carry out the program for each of fiscal years 2013 and 2014.

“(2) ADMINISTRATION.—The funds made available under paragraph (1) shall be administered in the same manner as funds made available for the tribal transportation program under section 202 of title 23, United States Code, except that—

“(A) the funds made available for the program shall remain available until September 30 of the third fiscal year after the year appropriated; and

“(B) the Federal share of the cost of a project shall be 100 percent.”

#### ADDITIONAL AUTHORIZATION OF CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS

Pub. L. 105-178, title I, §1214(d), June 9, 1998, 112 Stat. 205, as amended by Pub. L. 109-59, title I, §1806, Aug. 10, 2005, 119 Stat. 1460, provided that:

“(1) AVAILABILITY TO STATES.—Not later than October 1 of each fiscal year, funds made available under paragraph (5) for the fiscal year shall be made available by the Secretary, in equal amounts, to each State that has within the boundaries of the State all or part of an Indian reservation having a land area of 10,000,000 acres or more.

“(2) AVAILABILITY TO ELIGIBLE COUNTIES.—

“(A) IN GENERAL.—Each fiscal year, each county that is located in a State to which funds are made available under paragraph (1), and that has in the county a public road described in subparagraph (B), shall be eligible to apply to the State for all or a portion of the funds made available to the State under this subsection to be used by the county to maintain such roads.

“(B) ROADS.—A public road referred to in subparagraph (A) is a public road that—

“(i) is within, adjacent to, or provides access to an Indian reservation described in paragraph (1);

“(ii) is used by a school bus to transport children to or from a school or Headstart program carried out under the Head Start Act (42 U.S.C. 9831 et seq.); and

“(iii) is maintained by the county in which the public road is located.

“(C) ALLOCATION AMONG ELIGIBLE COUNTIES.—

“(i) IN GENERAL.—Except as provided in clause (ii), each State that receives funds under paragraph (1) shall provide directly to each county that applies for funds the amount that the county requests in the application.

“(ii) ALLOCATION AMONG ELIGIBLE COUNTIES.—If the total amount of funds applied for under this subsection by eligible counties in a State exceeds the amount of funds available to the State, the State shall equitably allocate the funds among the eligible counties that apply for funds.

“(3) SUPPLEMENTARY FUNDING.—For each fiscal year, the Secretary shall ensure that funding made available under this subsection supplements (and does not supplant)—

“(A) any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations; and

“(B) any funding provided by a State to a county for road maintenance programs in the county.

“(4) USE OF UNALLOCATED FUNDS.—Any portion of the funds made available to a State under this subsection that is not made available to counties within 1 year after the funds are made available to the State shall be apportioned among the States in accordance with section 104(b) of title 23, United States Code.

“(5) FUNDING.—

“(A) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$1,800,000 for each of fiscal years 2005 through 2009.

“(B) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.”

#### INDIAN RESERVATION ROADS

Pub. L. 102-240, title I, §1032(d), Dec. 18, 1991, 105 Stat. 1975, provided that: “Notwithstanding any other provision of law, funds allocated for Indian reservation roads may be used for the purpose of funding road projects on roads of tribally controlled postsecondary vocational institutions.”

Pub. L. 102-240, title I, §1042, Dec. 18, 1991, 105 Stat. 1993, directed Secretary of Transportation to conduct a study on funding needs for Indian reservation roads and to report to Congress on results of the study not later than one year after Dec. 18, 1991, prior to repeal by Pub. L. 105-362, title XV, §1501(c), Nov. 10, 1998, 112 Stat. 3294.

### § 203. Federal lands transportation program

(a) USE OF FUNDS.—

(1) IN GENERAL.—Funds made available under the Federal lands transportation program shall be used by the Secretary of Transportation and the Secretary of the appropriate Federal land management agency to pay the costs of—

(A) program administration, transportation planning, research, preventive maintenance, engineering, rehabilitation, restoration, construction, and reconstruction of Federal lands transportation facilities, and—

(i) adjacent vehicular parking areas;

(ii) acquisition of necessary scenic easements and scenic or historic sites;

(iii) provision for pedestrians and bicycles;

(iv) environmental mitigation in or adjacent to Federal land open to the public—

(I) to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; and

(II) to mitigate the damage to wildlife, aquatic organism passage, habitat, and ecosystem connectivity, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate;

(v) construction and reconstruction of roadside rest areas, including sanitary and water facilities;

(vi) congestion mitigation; and

(vii) other appropriate public road facilities, as determined by the Secretary;

(B) operation and maintenance of transit facilities;

(C) any transportation project eligible for assistance under this title that is on a public road within or adjacent to, or that provides access to, Federal lands open to the public; and

(D) not more \$10,000,000 of the amounts made available per fiscal year to carry out this section for activities eligible under subparagraph (A)(iv).

(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a contract or other appropriate agreement with respect to the activity with—

(A) a State (including a political subdivision of a State); or

(B) an Indian tribe.

(3) ADMINISTRATION.—All appropriations for the construction and improvement of Federal lands transportation facilities shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the appropriate Federal land managing agency.

(4) COOPERATION.—

(A) IN GENERAL.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

(B) FUNDS RECEIVED.—Any funds received from a State, county, or local subdivision shall be credited to appropriations available for the class of Federal lands transportation facilities to which the funds were contributed.

(5) COMPETITIVE BIDDING.—

(A) IN GENERAL.—Subject to subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

(B) EXCEPTION.—Subparagraph (A) shall not apply if the Secretary or the Secretary of the appropriate Federal land management agency affirmatively finds that, under the circumstances relating to the project, a different method is in the public interest.

(b) AGENCY PROGRAM DISTRIBUTIONS.—

(1) IN GENERAL.—On October 1, 2011, and on October 1 of each fiscal year thereafter, the Secretary shall allocate the sums authorized to be appropriated for the fiscal year for the Federal lands transportation program on the basis of applications of need, as determined by the Secretary—

(A) in consultation with the Secretaries of the applicable Federal land management agencies; and

(B) in coordination with the transportation plans required under section 201 of the respective transportation systems of—

(i) the National Park Service;

(ii) the Forest Service;

(iii) the United States Fish and Wildlife Service;

(iv) the Corps of Engineers; and

(v) the Bureau of Land Management.

(2) APPLICATIONS.—

(A) REQUIREMENTS.—Each application submitted by a Federal land management agency shall include proposed programs at various potential funding levels, as defined by the Secretary following collaborative discussions with applicable Federal land management agencies.

(B) CONSIDERATION BY SECRETARY.—In evaluating an application submitted under subparagraph (A), the Secretary shall consider the extent to which the programs support—

(i) the transportation goals of—

(I) a state of good repair of transportation facilities;

(II) a reduction of bridge deficiencies,<sup>1</sup> and

(III) an improvement of safety;

(ii) high-use Federal recreational sites or Federal economic generators; and

(iii) the resource and asset management goals of the Secretary of the respective Federal land management agency.

(C) PERMISSIVE CONTENTS.—Applications may include proposed programs the duration of which extend over a multiple-year period to support long-term transportation planning and resource management initiatives.

(c) NATIONAL FEDERAL LANDS TRANSPORTATION FACILITY INVENTORY.—

(1) IN GENERAL.—The Secretaries of the appropriate Federal land management agencies, in cooperation with the Secretary, shall maintain a comprehensive national inventory of public Federal lands transportation facilities.

(2) TRANSPORTATION FACILITIES INCLUDED IN THE INVENTORIES.—To identify the Federal lands transportation system and determine the relative transportation needs among Federal land management agencies, the inventories shall include, at a minimum, facilities that—

(A) provide access to high-use Federal recreation sites or Federal economic generators, as determined by the Secretary in coordination with the respective Secretaries of the appropriate Federal land management agencies; and

(B) are owned by 1 of the following agencies:

(i) The National Park Service.

(ii) The Forest Service.

(iii) The United States Fish and Wildlife Service.

(iv) The Bureau of Land Management.

(v) The Corps of Engineers.

(3) AVAILABILITY.—The inventories shall be made available to the Secretary.

(4) UPDATES.—The Secretaries of the appropriate Federal land management agencies shall update the inventories of the appropriate

<sup>1</sup> So in original. The comma probably should be a semicolon.

Federal land management agencies, as determined by the Secretary after collaborative discussions with the Secretaries of the appropriate Federal land management agencies.

(5) REVIEW.—A decision to add or remove a facility from the inventory shall not be considered a Federal action for purposes of review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) BICYCLE SAFETY.—The Secretary of the appropriate Federal land management agency shall prohibit the use of bicycles on each federally owned road that has a speed limit of 30 miles per hour or greater and an adjacent paved path for use by bicycles within 100 yards of the road unless the Secretary determines that the bicycle level of service on that roadway is rated B or higher.

(Added Pub. L. 112-141, div. A, title I, §1119(a), July 6, 2012, 126 Stat. 486.)

#### REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (c)(5), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

#### PRIOR PROVISIONS

A prior section 203, Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 906; Pub. L. 86-657, §8(b), July 14, 1960, 74 Stat. 524; Pub. L. 87-866, §7, Oct. 23, 1962, 76 Stat. 1147; Pub. L. 94-280, title I, §117(b), May 5, 1976, 90 Stat. 437; Pub. L. 97-424, title I, §126(f), Jan. 6, 1983, 96 Stat. 2116; Pub. L. 102-240, title I, §1032(f), Dec. 18, 1991, 105 Stat. 1975; Pub. L. 105-178, title I, §1115(c), (e)(3), June 9, 1998, 112 Stat. 156, 158, related to availability of funds, prior to repeal by Pub. L. 112-141, div. A, title I, §1119(a), July 6, 2012, 126 Stat. 473.

#### EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

### § 204. Federal lands access program

#### (a) USE OF FUNDS.—

(1) IN GENERAL.—Funds made available under the Federal lands access program shall be used by the Secretary of Transportation and the Secretary of the appropriate Federal land management agency to pay the cost of—

(A) transportation planning, research, engineering, preventive maintenance, rehabilitation, restoration, construction, and reconstruction of Federal lands access transportation facilities located on or adjacent to, or that provide access to, Federal land, and—

- (i) adjacent vehicular parking areas;
- (ii) acquisition of necessary scenic easements and scenic or historic sites;
- (iii) provisions for pedestrians and bicycles;
- (iv) environmental mitigation in or adjacent to Federal land to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity;

(v) construction and reconstruction of roadside rest areas, including sanitary and water facilities; and

(vi) other appropriate public road facilities, as determined by the Secretary;

(B) operation and maintenance of transit facilities; and

(C) any transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, Federal land.

(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a contract or other appropriate agreement with respect to the activity with—

- (A) a State (including a political subdivision of a State); or
- (B) an Indian tribe.

(3) ADMINISTRATION.—All appropriations for the construction and improvement of Federal lands access transportation facilities shall be administered in conformity with regulations and agreements approved by the Secretary.

#### (4) COOPERATION.—

(A) IN GENERAL.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

(B) FUNDS RECEIVED.—Any funds received from a State, county, or local subdivision for a Federal lands access transportation facility project shall be credited to appropriations available under the Federal lands access program.

#### (5) COMPETITIVE BIDDING.—

(A) IN GENERAL.—Subject to subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

(B) EXCEPTION.—Subparagraph (A) shall not apply if the Secretary or the Secretary of the appropriate Federal land management agency affirmatively finds that, under the circumstances relating to the project, a different method is in the public interest.

#### (b) PROGRAM DISTRIBUTIONS.—

(1) IN GENERAL.—Funding made available to carry out the Federal lands access program shall be allocated among those States that have Federal land, in accordance with the following formula:

(A) 80 percent of the available funding for use in those States that contain at least 1 ½ percent of the total public land in the United States managed by the agencies described in paragraph (2), to be distributed as follows:

- (i) 30 percent in the ratio that—
  - (I) recreational visitation within each such State; bears to
  - (II) the recreational visitation within all such States.

- (ii) 5 percent in the ratio that—
  - (I) the Federal land area within each such State; bears to
  - (II) the Federal land area in all such States.

- (iii) 55 percent in the ratio that—
  - (I) the Federal public road miles within each such State; bears to