

Sec. 6702.	Local and regional project assistance.
6703.	National culvert removal, replacement, and restoration grant program.

**Editorial Notes**

## AMENDMENTS

2021—Pub. L. 117-58, div. B, title I, §21203(b), Nov. 15, 2021, 135 Stat. 677, added item 6703.

**§ 6701. National infrastructure project assistance**

(a) DEFINITIONS.—In this section:

(1) DEPARTMENT.—The term “Department” means the Department of Transportation.

(2) ELIGIBLE ENTITY.—The term “eligible entity” means—

- (A) a State or a group of States;
- (B) a metropolitan planning organization;
- (C) a unit of local government;
- (D) a political subdivision of a State;
- (E) a special purpose district or public authority with a transportation function, including a port authority;
- (F) a Tribal government or a consortium of Tribal governments;
- (G) a partnership between Amtrak and 1 or more entities described in subparagraphs (A) through (F); and
- (H) a group of entities described in any of subparagraphs (A) through (G).

(3) PROGRAM.—The term “program” means the program established by subsection (b).

(4) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

- (5) STATE.—The term “State” means—
- (A) any of the several States;
  - (B) the District of Columbia;
  - (C) the Commonwealth of Puerto Rico;
  - (D) the Commonwealth of the Northern Mariana Islands;
  - (E) the United States Virgin Islands;
  - (F) Guam;
  - (G) American Samoa; and
  - (H) any other territory or possession of the United States.

(b) ESTABLISHMENT.—There is established a program under which the Secretary shall provide to eligible entities grants, on a competitive basis pursuant to single-year or multiyear grant agreements, for projects described in subsection (d).

(c) APPLICATIONS.—

(1) IN GENERAL.—To be eligible for a grant under the program, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines to be appropriate.

(2) PLAN FOR DATA COLLECTION.—An application under paragraph (1) shall include a plan for data collection and analysis described in subsection (g).

(d) ELIGIBLE PROJECTS.—The Secretary may provide a grant under the program only for a project—

- (1) that is—
  - (A) a highway or bridge project carried out on—
    - (i) the National Multimodal Freight Network established under section 70103;

- (ii) the National Highway Freight Network established under section 167 of title 23; or

- (iii) the National Highway System (as defined in section 101(a) of title 23);

- (B) a freight intermodal (including public ports) or freight rail project that provides a public benefit;

- (C) a railway-highway grade separation or elimination project;

- (D) an intercity passenger rail project;

- (E) a public transportation project that is—

- (i) eligible for assistance under chapter 53; and

- (ii) part of a project described in any of subparagraphs (A) through (D); or

- (F) a grouping, combination, or program of interrelated, connected, or dependent projects of any of the projects described in subparagraphs (A) through (E); and

(2) the eligible project costs of which are—

- (A) reasonably anticipated to equal or exceed \$500,000,000; or

- (B) for any project funded by the set-aside under subsection (m)(2)—

- (i) more than \$100,000,000; but
- (ii) less than \$500,000,000.

(e) GEOGRAPHICAL DISTRIBUTION.—In providing grants under this section, the Secretary shall ensure among grant recipients—

- (1) geographical diversity; and
- (2) a balance between rural and urban communities.

(f) PROJECT EVALUATION AND SELECTION.—

(1) REQUIREMENTS.—The Secretary may select a project described in subsection (d) to receive a grant under the program only if the Secretary determines that—

- (A) the project is likely to generate national or regional economic, mobility, or safety benefits;
- (B) the project is in need of significant Federal funding;
- (C) the project will be cost-effective;
- (D) with respect to related non-Federal financial commitments, 1 or more stable and dependable sources of funding and financing are available—

- (i) to construct, operate, and maintain the project; and
- (ii) to cover cost increases; and

- (E) the applicant has, or will have, sufficient legal, financial, and technical capacity to carry out the project.

(2) EVALUATION CRITERIA.—In awarding a grant under the program, the Secretary shall evaluate—

- (A) the extent to which a project supports achieving a state of good repair for each existing asset to be improved by the project;

- (B) the level of benefits a project is expected to generate, including—

- (i) the costs avoided by the prevention of closure or reduced use of the asset to be improved by the project;
- (ii) reductions in maintenance costs over the life of the applicable asset;

(iii) safety benefits, including the reduction of serious injuries and fatalities and related costs;

(iv) improved person or freight throughput, including improved mobility and reliability; and

(v) environmental benefits and health impacts, such as—

(I) reductions in greenhouse gas emissions;

(II) air quality benefits;

(III) preventing stormwater runoff that would be a detriment to aquatic species; and

(IV) improved infrastructure resilience;

(C) the benefits of the project, as compared to the costs of the project;

(D) the number of persons or volume of freight, as applicable, supported by the project; and

(E) national and regional economic benefits of the project, including with respect to short- and long-term job access, growth, or creation.

(3) **ADDITIONAL CONSIDERATIONS.**—In selecting projects to receive grants under the program, the Secretary shall take into consideration—

(A) contributions to geographical diversity among grant recipients, including a balance between the needs of rural and urban communities;

(B) whether multiple States would benefit from a project;

(C) whether, and the degree to which, a project uses—

(i) construction materials or approaches that have—

(I) demonstrated reductions in greenhouse gas emissions; or

(II) reduced the need for maintenance of other projects; or

(ii) technologies that will allow for future connectivity and automation;

(D) whether a project would benefit—

(i) a historically disadvantaged community or population; or

(ii) an area of persistent poverty;

(E) whether a project benefits users of multiple modes of transportation, including—

(i) pedestrians;

(ii) bicyclists; and

(iii) users of nonvehicular rail and public transportation, including intercity and commuter rail; and

(F) whether a project improves connectivity between modes of transportation moving persons or goods nationally or regionally.

(4) **RATINGS.**—

(A) **IN GENERAL.**—In evaluating applications for a grant under the program, the Secretary shall assign the project proposed in the application a rating described in subparagraph (B), based on the information contained in the applicable notice published under paragraph (5).

(B) **RATINGS.**—

(i) **HIGHLY RECOMMENDED.**—The Secretary shall assign a rating of “highly recommended” to projects that, in the determination of the Secretary—

(I) are exemplary projects of national or regional significance; and

(II) would provide significant public benefit, as determined based on the applicable criteria described in this subsection, if funded under the program.

(ii) **RECOMMENDED.**—The Secretary shall assign a rating of “recommended” to projects that, in the determination of the Secretary—

(I) are of national or regional significance; and

(II) would provide public benefit, as determined based on the applicable criteria described in this subsection, if funded under the program.

(iii) **NOT RECOMMENDED.**—The Secretary shall assign a rating of “not recommended” to projects that, in the determination of the Secretary, should not receive a grant under the program, based on the applicable criteria described in this subsection.

(C) **TECHNICAL ASSISTANCE.**—

(i) **IN GENERAL.**—On request of an eligible entity that submitted an application under subsection (c) for a project that is not selected to receive a grant under the program, the Secretary shall provide to the eligible entity technical assistance and briefings relating to the project.

(ii) **TREATMENT.**—Technical assistance provided under this subparagraph shall not be considered a guarantee of future selection of the applicable project under the program.

(5) **PUBLICATION OF PROJECT EVALUATION AND SELECTION CRITERIA.**—Not later than 90 days after the date of enactment of this chapter, the Secretary shall publish and make publicly available on the website of the Department a notice that contains a detailed explanation of—

(A) the method by which the Secretary will determine whether a project satisfies the applicable requirements described in paragraph (1);

(B) any additional ratings the Secretary may assign to determine the means by which a project addresses the selection criteria and additional considerations described in paragraphs (2) and (3); and

(C) the means by which the project requirements and ratings referred to in subparagraphs (A) and (B) will be used to assign an overall rating for the project under paragraph (4).

(6) **PROJECT SELECTION PRIORITY.**—In awarding grants under the program, the Secretary shall give priority to projects to which the Secretary has assigned a rating of “highly recommended” under paragraph (4)(B)(i).

(g) **DATA COLLECTION AND ANALYSIS.**—

## (1) PLAN.—

(A) IN GENERAL.—An eligible entity seeking a grant under the program shall submit to the Secretary, together with the grant application, a plan for the collection and analysis of data to identify in accordance with the framework established under paragraph (2)—

- (i) the impacts of the project; and
- (ii) the accuracy of any forecast prepared during the development phase of the project and included in the grant application.

(B) CONTENTS.—A plan under subparagraph (A) shall include—

- (i) an approach to measuring—
  - (I) the criteria described in subsection (f)(2); and
  - (II) if applicable, the additional requirements described in subsection (f)(3);
- (ii) an approach for analyzing the consistency of predicted project characteristics with actual outcomes; and
- (iii) any other elements that the Secretary determines to be necessary.

(2) FRAMEWORK.—The Secretary may publish a standardized framework for the contents of the plans under paragraph (1), which may include, as appropriate—

- (A) standardized forecasting and measurement approaches;
- (B) data storage system requirements; and
- (C) any other requirements the Secretary determines to be necessary to carry out this section.

(3) MULTIYEAR GRANT AGREEMENTS.—The Secretary shall require an eligible entity, as a condition of receiving funding pursuant to a multiyear grant agreement under the program, to collect additional data to measure the impacts of the project and to accurately track improvements made by the project, in accordance with a plan described in paragraph (1).

## (4) REPORTS.—

(A) PROJECT BASELINE.—Before the date of completion of a project for which a grant is provided under the program, the eligible entity carrying out the project shall submit to the Secretary a report providing baseline data for the purpose of analyzing the long-term impact of the project in accordance with the framework established under paragraph (2).

(B) UPDATED REPORT.—Not later than 6 years after the date of completion of a project for which a grant is provided under the program, the eligible entity carrying out the project shall submit to the Secretary a report that compares the baseline data included in the report under subparagraph (A) to project data collected during the period—

- (i) beginning on the date that is 5 years after the date of completion of the project; and
- (ii) ending on the date on which the updated report is submitted.

## (h) ELIGIBLE PROJECT COSTS.—

(1) IN GENERAL.—An eligible entity may use a grant provided under the program for—

(A) development-phase activities and costs, including planning, feasibility analysis, revenue forecasting, alternatives analysis, data collection and analysis, environmental review and activities to support environmental review, preliminary engineering and design work, and other preconstruction activities, including the preparation of a data collection and post-construction analysis plan under subsection (g); and

(B) construction, reconstruction, rehabilitation, acquisition of real property (including land relating to the project and improvements to that land), environmental mitigation (including projects to replace or rehabilitate culverts or reduce stormwater runoff for the purpose of improving habitat for aquatic species), construction contingencies, acquisition of equipment, protection, and operational improvements directly relating to the project.

(2) INTEREST AND OTHER FINANCING COSTS.—The interest and other financing costs of carrying out any part of a project under a multiyear grant agreement within a reasonable period of time shall be considered to be an eligible project cost only if the applicable eligible entity certifies to the Secretary that the eligible entity has demonstrated reasonable diligence in seeking the most favorable financing terms.

## (i) COST SHARING.—

(1) IN GENERAL.—The total amount awarded for a project under the program may not exceed 60 percent of the total eligible project costs described in subsection (h).

## (2) MAXIMUM FEDERAL INVOLVEMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), Federal assistance other than a grant awarded under the program may be provided for a project for which a grant is awarded under the program.

(B) LIMITATION.—The total amount of Federal assistance provided for a project for which a grant is awarded under the program shall not exceed 80 percent of the total cost of the project.

(C) NON-FEDERAL SHARE.—Secured loans or financing provided under section 603 of title 23 or section 22402 of this title and repaid with local funds or revenues shall be considered to be part of the local share of the cost of a project.

(3) APPLICATION TO MULTIYEAR AGREEMENTS.—Notwithstanding any other provision of this title, in any case in which amounts are provided under the program pursuant to a multiyear agreement, the disbursed Federal share of the cost of the project may exceed the limitations described in paragraphs (1) and (2)(B) for 1 or more years if the total amount of the Federal share of the cost of the project, once completed, does not exceed those limitations.

## (j) GRANT AGREEMENTS.—

(1) IN GENERAL.—A project for which an eligible entity receives a multiyear grant under the program shall be carried out in accordance with this subsection.

(2) TERMS.—A multiyear grant agreement under this subsection shall—

(A) establish the terms of Federal participation in the applicable project;

(B) establish the maximum amount of Federal financial assistance for the project;

(C) establish a schedule of anticipated Federal obligations for the project that provides for obligation of the full grant amount;

(D) describe the period of time for completing the project, regardless of whether that period extends beyond the period of an authorization; and

(E) facilitate timely and efficient management of the applicable project by the eligible entity carrying out the project, in accordance with applicable law.

(3) SPECIAL RULES.—

(A) IN GENERAL.—A multiyear grant agreement under this subsection—

(i) shall provide for the obligation of an amount of available budget authority specified in law;

(ii) may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law; and

(iii) shall provide that any funds disbursed under the program for the project before the completion of any review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) may only cover costs associated with development-phase activities described in subsection (h)(1)(A).

(B) CONTINGENT COMMITMENT.—A contingent commitment under this paragraph is not an obligation of the Federal Government, including for purposes of section 1501 of title 31.

(4) SINGLE-YEAR GRANTS.—The Secretary may only provide to an eligible entity a full grant under the program in a single year if all reviews required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the applicable project have been completed before the receipt of any program funds.

(k) CONGRESSIONAL NOTIFICATION.—

(1) IN GENERAL.—Not later than 30 days before the date on which the Secretary publishes the selection of projects to receive grants under the program, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written notice that includes—

(A) a list of all project applications reviewed by the Secretary as part of the selection process;

(B) the rating assigned to each project under subsection (f)(4);

(C) an evaluation and justification with respect to each project for which the Secretary will—

(i) provide a grant under the program; and

(ii) enter into a multiyear grant agreement under the program;

(D) a description of the means by which the Secretary anticipates allocating among selected projects the amounts made available to the Secretary to carry out the program; and

(E) anticipated funding levels required for the 3 fiscal years beginning after the date of submission of the notice for projects selected for grants under the program, based on information available to the Secretary as of that date.

(2) CONGRESSIONAL DISAPPROVAL.—The Secretary may not provide a grant or any other obligation or commitment to fund a project under the program if a joint resolution is enacted disapproving funding for the project before the last day of the 30-day period described in paragraph (1).

(l) REPORTS.—

(1) TRANSPARENCY.—Not later than 60 days after the date on which the grants are announced under the program, the Secretary shall publish on the website of the Department a report that includes—

(A) a list of all project applications reviewed by the Secretary as part of the selection process under the program;

(B) the rating assigned to each project under subsection (f)(4); and

(C) a description of each project for which a grant has been provided under the program.

(2) COMPTROLLER GENERAL.—

(A) ASSESSMENT.—The Comptroller General of the United States shall conduct an assessment of the administrative establishment, solicitation, selection, and justification process with respect to the funding of grants under the program.

(B) REPORT.—Not later than 18 months after the date on which the initial grants are awarded for projects under the program, the Comptroller General shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes, as applicable—

(i) the adequacy and fairness of the process by which the projects were selected; and

(ii) the justification and criteria used for the selection of the projects.

(m) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out the program \$2,000,000,000 for each of fiscal years 2022 through 2026.

(2) OTHER PROJECTS.—Of the amounts made available under paragraph (1), 50 percent shall be set aside for projects that have a project cost of—

(A) more than \$100,000,000; but

(B) less than \$500,000,000.

(3) ADMINISTRATIVE EXPENSES.—Of the amounts made available to carry out the pro-

gram for each fiscal year, the Secretary may reserve not more than 2 percent for the costs of—

(A) administering and overseeing the program; and

(B) hiring personnel for the program, including personnel dedicated to processing permitting and environmental review issues.

(4) TRANSFER OF AUTHORITY.—The Secretary may transfer any portion of the amounts reserved under paragraph (3) for a fiscal year to the Administrator of any of the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration, or the Maritime Administration to award and oversee grants in accordance with this section.

(n) ADDITIONAL REQUIREMENTS.—

(1) IN GENERAL.—Each project that receives a grant under this chapter shall achieve compliance with the applicable requirements of—

(A) subchapter IV of chapter 31 of title 40;

(B) title VI of the Civil Rights Act of 1964 (2 U.S.C. 2000d et seq.); and

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) MODAL REQUIREMENTS.—The Secretary shall, with respect to a project funded by a grant under this section, apply—

(A) the requirements of title 23 to a highway, road, or bridge project;

(B) the requirements of chapter 53 to a transit project; and

(C) the requirements of section 22905 to a rail project.

(3) MULTIMODAL PROJECTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, if an eligible project is a multimodal project, the Secretary shall—

(i) determine the predominant modal component of the project; and

(ii) apply the applicable requirements described in paragraph (2) of the predominant modal component to the project.

(B) EXCEPTIONS.—

(i) PASSENGER OR FREIGHT RAIL COMPONENT.—The requirements of section 22905 shall apply to any passenger or freight rail component of a project.

(ii) PUBLIC TRANSPORTATION COMPONENT.—The requirements of section 5333 shall apply to any public transportation component of a project.

(Added Pub. L. 117–58, div. B, title I, § 21201, Nov. 15, 2021, 135 Stat. 663.)

#### Editorial Notes

##### REFERENCES IN TEXT

The date of enactment of this chapter, referred to in subsec. (f)(5), is the date of enactment of Pub. L. 117–58, which was approved Nov. 15, 2021.

The National Environmental Policy Act of 1969, referred to in subsecs. (j)(3)(A)(iii), (4), and (n)(1)(C), 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.

The Civil Rights Act of 1964, referred to in subsec. (n)(1)(B), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 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 2000a of Title 42 and Tables.

#### § 6702. Local and regional project assistance

(a) DEFINITIONS.—In this section:

(1) AREA OF PERSISTENT POVERTY.—The term “area of persistent poverty” means—

(A) any county (or equivalent jurisdiction) in which, during the 30-year period ending on the date of enactment of this chapter, 20 percent or more of the population continually lived in poverty, as measured by—

(i) the 1990 decennial census;

(ii) the 2000 decennial census; and

(iii) the most recent annual small area income and poverty estimate of the Bureau of the Census;

(B) any census tract with a poverty rate of not less than 20 percent, as measured by the 5-year data series available from the American Community Survey of the Bureau of the Census for the period of 2014 through 2018; and

(C) any territory or possession of the United States.

(2) ELIGIBLE ENTITY.—The term “eligible entity” means—

(A) a State;

(B) the District of Columbia;

(C) any territory or possession of the United States;

(D) a unit of local government;

(E) a public agency or publicly chartered authority established by 1 or more States;

(F) a special purpose district or public authority with a transportation function, including a port authority;

(G) a federally recognized Indian Tribe or a consortium of such Indian Tribes;

(H) a transit agency; and

(I) a multi-State or multijurisdictional group of entities described in any of subparagraphs (A) through (H).

(3) ELIGIBLE PROJECT.—The term “eligible project” means—

(A) a highway or bridge project eligible for assistance under title 23;

(B) a public transportation project eligible for assistance under chapter 53;

(C) a passenger rail or freight rail transportation project eligible for assistance under this title;

(D) a port infrastructure investment, including—

(i) inland port infrastructure; and

(ii) a land port-of-entry;

(E) the surface transportation components of an airport project eligible for assistance under part B of subtitle VII;

(F) a project for investment in a surface transportation facility located on Tribal land, the title or maintenance responsibility of which is vested in the Federal Government;

(G) a project to replace or rehabilitate a culvert or prevent stormwater runoff for the