



AMERICAN COUNCIL OF ENGINEERING COMPANIES

## **BUILD AMERICA 250 ACT**

### Highway Programs

- \$375 billion over five years for FHWA programs, including
  - \$9.2 billion per year for bridges, plus an additional \$2 billion authorization subject to future appropriations.
  - \$3.75 billion for Safe Streets and Roads for All, starting at \$500 million in FY'27 and growing to \$1 billion in FY'31.
  - \$2.4 billion annually for a new Surface Transportation Accelerator Grant program, which combines a variety of discretionary grants created under the IIJA into one funding pot, with allocations for local, regional, rural, and urban areas.
- According to a briefing by committee staff, every State DOT will see an increase in their highway formula apportionments. Early estimates show a 3.4% increase in average state highway funding versus FY'26.
- The bill eliminates the carbon reduction program, electric vehicle charging station program, and resilience grants created in the IIJA, but it makes those projects eligible for funding in other accounts.

### Transit Programs

- \$87 billion over five years from the Highway Trust Fund for transit formula programs. This is roughly equivalent to what transit agencies were receiving in formula funds under the IIJA.
- An additional \$3 billion per year authorized from the General Fund for Capital Investment Grants, consistent with current law.

### Rail Programs

- Authorizes a total of \$65 billion from the General Fund\*, including:
  - \$31 billion for Amtrak over five years - \$10.3 billion for the Northeast Corridor and \$20.7 billion for the National Network.
  - \$9 billion over five years for the Consolidated Rail Infrastructure and Safety Improvements (CRISI) program grants.
  - \$18.5 billion over five years for a consolidated National Intercity Passenger Rail Partnership program.

\*Note that these are not guaranteed funds and are subject to the annual appropriations process.



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### Engineering and Design Services

- Authorizes FHWA to provide technical assistance, guidance and best practices to State DOTs on lump sum contracting, as requested by ACEC.
- Eliminates the exemption for the State of Minnesota from the prohibition on overhead caps and compliance with the FAR cost principles, as requested by ACEC Minnesota.
- Requires FHWA to develop a list of categorial design exceptions from standards for the National Highway System for categories of multimodal projects and features on Federal-aid highways.

### Disadvantaged Business Enterprise Program

- Reauthorizes the DBE program, replacing the terms "minority- and women-owned business" with "socially and economically disadvantaged individuals".
- Sets a "national, aspirational goal" of at least 10% of federal funding to be set for expenditure through good faith efforts by recipients through small businesses owned and operated by socially and economically disadvantaged individuals.
- Tasks U.S. DOT with developing objective criteria for how state certifying agencies will evaluate whether an individual qualifies as socially and economically disadvantaged, including the ability of individuals to submit evidence of discrimination and instances of economic hardship, systemic barriers, and denied opportunities.

### Technology

- Reauthorizes and consolidates funding for the SMART grant program.
- Reauthorizes and modifies the Advanced Digital Construction Management System (ADCMS) grant program.

### New User Fees

- Creates a new registration fee for electric and plug-in hybrid vehicles:
  - \$130 annual fee for EVs, increasing to \$150 over five years.
  - \$35 annual fee for plug-in hybrids, increasing to \$50.
  - This will not address the Highway Trust Fund deficit, but it would be the first new transportation user fees enacted in 33 years.
- Reauthorizes the national pilot program for mileage-based user fees (which was created in the IIJA but not implemented).



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### Metropolitan Planning

Section 1113 includes a process for a Metropolitan Planning Organization (MPO) to be a direct recipient of federal transportation planning funds. Under the bill, the Secretary of Transportation would be tasked with establishing a process for MPOs to qualify as direct recipients based on a review of their legal, technical, and financial capacity. The bill also expands metropolitan planning funding to include preliminary design, local technical assistance, and transportation studies.

### DOT Project Management Training, Education, and Best Practices

Section 1210 requires the National Highway Institute to offer classes relating to contract management, competition in contracting, contract scoping, and managing state contract officers and engineers. This section also requires U.S. DOT to develop and maintain best practices for states to improve contract specificity and increase competition. States are required to submit a plan to DOT on how they intend to implement best practices.

The bill text includes two parts: (1) adding contracting and procurement to the list of topics for National Highway Institute training, including "managing contracting officers and engineers and measuring the performance of such contracting officers and engineers as such performance relates to the relative costs of projects compared to projects of comparable scopes that are supervised by other contracting officers and engineers"; and (2) requiring U.S. DOT to develop and transmit best practices for

- A. improving specificity in initial contract scoping and language to reduce project uncertainty, the potential for project scope changes after a contract has been awarded, and the risk of cost overruns;
- B. increasing competition in projects funded with Federal grants;
- C. improving contract advertisement and conducting outreach to potential bidders to increase the bidder pool for projects; and
- D. improving contracting officer and engineer performance to ensure the greatest value in contracting by a State department of transportation.

State DOTs would need to report on how they're incorporating those best practices into their policies and procedures.

According to conversations with the committee staff, this section is intended to bolster internal state agency capacity for more effectively managing projects and controlling construction costs. It is not intended as a mechanism for restricting the ability of DOTs to contract out for engineering services. We have reiterated the importance of that point to the committee and will be closely monitoring this section and its potential implications.



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Consolidated Funding Pilot Program

The bill creates a pilot program to allow up to ten states to receive their apportioned federal formula funds in a single block grant. Under the pilot program, funds would be eligible for use for any project under existing highway formula programs. Participating states would be required to commit 25 percent of funding to regional and local areas in proportion to their relative shares of the population of the state and would be required to consult with MPOs and regional transportation planning organizations representing those areas. States would be required to submit progress reports to U.S. DOT on progress towards meeting FHWA performance measures.