



December 15, 2022

The Honorable Pete Buttigieg
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable Billy Nolen
Acting Administrator
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591

Re: NASAO Recommendations to the U.S. Department of Transportation and Federal Aviation Administration on Implementation of the Infrastructure Investment and Jobs Act

Dear Secretary Buttigieg and Acting Administrator Nolen:

On behalf of the National Association of State Aviation Officials (NASAO), I write to reinforce the **importance of a state-federal partnership** on implementing the Infrastructure Investment and Jobs Act (IIJA) and **urge you to consider the below recommendations from the States to enhance IIJA implementation efforts.**

NASAO is the nationally recognized voice for the public interest in aviation on behalf of the States and territories. NASAO represents state government officials of all 50 States, Guam, and Puerto Rico, who, as part of their many responsibilities, make decisions on funding aviation systems and airport infrastructure at our nation's more than 3,300 public-use airports.

IIJA is an important investment in our nation's airport system and the States are appreciative of this funding to advance aging airports. Our system of airport development has evolved into a partnership of federal, state, local and private collaboration making this system the best in the world.

Continuing and reinforcing the longstanding partnership between the States and the U.S. Department of Transportation (USDOT) and the Federal Aviation Administration (FAA) will be key to modernizing our airport infrastructure. As USDOT/FAA implements the airport infrastructure grants from IIJA, NASAO offers the following recommendations that will help facilitate efficient implementation of IIJA funds:

- **Work with each State Aviation Agency Early to Get Input on Implementation Process:** Each Airports District Office (ADO) and/or Regional Office (RO) should work cooperatively with State aviation agencies to ensure successful implementation of IIJA funds. This could include coordinating with the State during the process on awarding funds to airports depending on the grant management model the State adopts.
 - For all States, it is very important for FAA to work with State aviation agencies to ensure they are involved in the application process, provide input on the need and scope of projects and to be prepared to provide matching funds if the project calls for State participation. Given the IIJA grant process is new, NASAO encourages the FAA to share grant applications with the State aviation agency (as is done with the AIP grant

process) and ensure they give adequate time for State aviation agencies to provide recommendations on projects.

- **Provide Administrative Funding to States to Assist with Implementation:** States' workload has doubled since the pandemic with the flow of federal funds to airports, which has strained State aviation agencies' resources and staff. Many States are concerned about the inadequate staff levels that they currently have to implement IIJA. Regardless of a State aviation agencies' status (e.g., Block Grant State or Channeling State), program funding assistance to States is needed to ensure IIJA funds is efficiently and effectively rolled out. There is no language that prohibits States from receiving administrative funding under the law to assist FAA in implementation of IIJA funds to airports.
- **Reissue Waiver to Ensure Adequate Time for Stakeholders to Understand and Adjust to Build America, Buy America (BABA) Act Requirements:** The new BABA requirements, if not carefully implemented, could negatively impact, the delivery of airport projects across the country due to higher bid prices and supply lead times. A phased approach will help with the transition, while minimizing disruptions to project delivery. To ensure a smooth transition, it will be critical for the USDOT/FAA to:
 - **Conduct trainings and provide adequate time** for State aviation agencies and the broader stakeholder community **to understand the new BABA requirements** and prepare for implementation of these new requirements.
 - **Provide timely and regular communication** throughout the transition to ensure new BABA requirements are consistently implemented across the country. State aviation agencies will be a key partner in this endeavor.
 - **Use of waivers (as appropriate) and quick response times to these requests** will be critical to ensuring that projects are not needlessly delayed.
- **Ensure Funds are Available at the Start of Each Fiscal Year:** The Frequently Asked Question (FAQ) states IIJA funds will be available at the start of each federal fiscal year. States and airports have planned bidding schedules around IIJA funds being available at this time only to be told funds will not be available until later. This impacts construction schedules and the timeliness of issuance of funds and awarding projects, particularly in States with weather-limited construction seasons. NASAO urges the FAA to take every possible step to ensure that IIJA funds are available at the start of the federal fiscal year.
- **Increase Efficiencies by Streamlining the Grant Application Process:** It is critical that the FAA issue IIJA funds as projects are ready rather than waiting for announcement windows that are causing complex scheduling issues with companion funding sources of traditional Airport Improvement Program (AIP). FAA has told Block Grant and Channeling States that IIJA allocated funds will be awarded based on bids. Without adopting the approach above, there must be an **IIJA grant release schedule to allow States to plan and execute bidding dates to**

ensure grants meet the bid hold dates provided by contractors. States are having difficulty adhering to quick application turnaround times given the time it takes to approve applications, generate the grant documentation, wait for announcement windows, and then issue the grant for local approval. These time frames are very challenging to meet and could cause a rebid situation where a new cost of a project becomes an issue. In addition, States providing a matching share must be able to work through its budget and funding process to meet these time frames.

- **Ensure Funds are Spent Efficiently by Allowing Airports to Transfer IIJA Funds Between Airports, Including the Option for State Aviation Agencies to Assist in Transferring Funds Between Airports in their State:** The IIJA does not address the issue of transferring funds, but FAA's FAQ states that airports are not allowed to do this. Without being able to transfer funds between airports, we may see many airports carry over funds year to year and are trying to complete projects in year 4 and 5, which could create a shortage of contractors and increase prices because many airports are trying to complete projects at the same time. Allowing those State aviation agencies who are willing to assist airports within in their States to transfer funds will also help ensure that funds are spent efficiently. Several States have been using this tool successfully for many years with AIP entitlement funds.

Lastly, NASAO offers comments and questions regarding IIJA implementation (see attachment). To address these concerns and questions, **I urge your respective teams to work with NASAO and the States to address questions on the allocation of IIJA funding and seek input from them – as partners in implementation – to improve the grant process.**

NASAO recognizes the evolving nature of IIJA implementation beyond this initial input and looks forward to continuing to work with you and your teams to implement much needed critical investments in our nation's airports. If you have any questions, please do not hesitate to contact Jessica Nagasako, NASAO's Director of Government Affairs, at JNagasako@nasao.org.

Sincerely,



David Ulane, A.A.E.
Chair, NASAO Board of Directors,
Director, Aeronautics Division,
Colorado Department of Transportation



Gregory Pecoraro
NASAO President and CEO

Enclosure

**NASAO Member Questions/Comments Regarding Awarding IJA Funding
December 2022**

1. Allow IJA AIG funds to be included in sub-awards supplementing NPE, State Apportionment and/or Discretionary. This was allowed with one of our large projects which included 2020 supplemental funding, as well as NPE and State Apportionment (it also became a home for transferred expiring NPE).
2. Are there changes needed to the following documents for BIL funded projects?
 - a. Sub-grant offer to sponsor
 - b. Sub-grant amendments
 - c. Consultant contract with sponsor
 - d. Project bid docs
 - e. Sponsor certs
 - f. Any other documents
3. For proration, how does local match come into the equation for split? For Nonprimary Entitlement (NPE) our sponsors have a mix of 100% and 90% funds which makes this more complicated than typical FAA projects.
 - a. Example, a sponsor is using \$166,666 in 100% NPE, \$150,000 in 90% NPE, and \$159,000 in BIL to fund a project = \$475,666 in federal funding, and \$34,334 in local match for a \$510,000 total project cost
 - i. Option 1: Include local match in the equation:
 1. => 65.36% NPE $(166,666 + 150,000 + 16,667) / 510,000$ and 34.64% BIL $(\$159,000 + \$17,667) / 510,000$
 - ii. Option 2: Calculate with federal funding only:
 1. => 66.57% NPE $(166,666 + 150,000) / 475,666$ and 33.43% BIL $(159,000) / 475,666$
4. Even with the proration of expenditures allowed when BIL is a sub-grant, the task of keeping track and splitting the costs is time consuming for our project managers.
5. We typically would issue a design grant using NPE, then a grant amendment for construction/construction phase services. We assume sponsors will want to use NPE for the design and prorate the grant amendment to use both NPE and BIL.
 - a. In this scenario would we need separate grant amendments for the BIL and for the NPE?
 - b. If the BIL is a separate grant altogether, how should grant numbers be changed?
 - c. If there is a need for a separate sub-grant for BIL, do we need a second set of sponsor certs or any other documents as would typically be needed for separate grants?
 - d. Typically for discretionary and apportionment projects we issue sub grants which contain those funds plus NPE. Our preference would be to have amendments with the same subgrant/project number to keep everything easier to administer.
6. Once a proration is set in an application, do we have to reimburse at this rate throughout the project?
 - a. Example: The split is 75% NPE-25% BIL. We receive an RFR from the sponsor early in the project and we do not have the BIL grant from the FAA, do we have to wait to receive BIL funds before we can reimburse NPE?

- b. Example: We have expiring NPE and would like to spend it down, can we reimburse it first before getting into BIL?
 - c. Example: We are at the end of the project; we have a CO decrease in overall project costs and would like to use up the available BIL funding in order to preserve available NPE.
7. How do we handle projects that need future funds?
- a. Example: A project utilizes all available NPE and BIL and will use next years' NPE and BIL as well. The split in all current available funding is 75% NPE-25%BIL, but the ratio of the next round of funding is 45% NPE -55% BIL.
 - i. Do we apply for 75%-25%, then the following year apply for 45%-55%?
 - ii. Do we apply 75%-25%, then use all NPE once available, and then apply for 100% BIL for what is remaining after that?
 - iii. Do we calculate what the future percentage will be with future funding and put that in the app i.e., 65%-45%? Please note, this scenario would leave NPE in our account that we cannot reimburse until future BIL is available if we have to reimburse at the % split throughout the project.
8. The easiest way to handle change order increases will be to use future available NPE (or keep a reserve of NPE when calculating the split if not all available funding is needed). However, how should we handle CO decreases? What happens to leftover BIL at the end of our projects?
9. For Block Grant States, how do we seek reimbursement for state employee work on projects utilizing BIL? If we are asked to track hours and associated costs when working on a project utilizing BIL, does the proration matter?
- a. Example I spend 10 hours on a project with a 75 NPE-25 BIL split. Do I code all of my hours on the project as going to a BIL project?
 - b. Example I spend 5 hours on a design project that has no BIL funding, however we know once bid BIL will be needed to fund the project. Should these hours be counted, they are necessary for the utilization of BIL funds?
 - c. What about other resources? I.E pilot and vehicle expenses for travel.
 - d. What about time not tied to a project but needed to figure out administration of the funds in general. I.E., typing out these questions, attending this meeting, providing guidance to sponsors and consultants, and updating relevant documents?
 - e. Or project tracking software (ASM) is currently set up for 1 grant (plus amendments of the same number) to be tied to a project. There are concerns about how to "Make it work" with the current setup while allow for future questions on "where the money was spent" to be transparent and to tie relevant project documents to both BIL and NPE. If a separate subgrant number for BIL is needed, would there be BIL funding available to work with the vendor (Civix) to modify the software to be able to have multiple federal grants tied together?
10. Would it be possible for states to just report the proration percent at project completion? This would alleviate many of the issues discussed and greatly reduce our administrative burden.
11. For some state aviation agencies, their reporting system is not configured for piece meal grants. This will increase the workload of other lines of business within the state, such as fiscal and legal, as tracking piece meal grants will be time-consuming and slow down the process.
12. Implementation of Special Conditions will be difficult to apply and track across multiple funding sources.
13. The push to issue grants at the end of each fiscal year is going to increase significantly with these additional grants due to the volume.

IIJA FAQs from FAA Website

14. Q-U46 needs details on BIL AIG-Allocated amendment process. The process would be very helpful to include not only steps but associated deadlines/timeframes, that would include reasonable timeframes for states
15. Q-U50 needs details on the NPIAS snapshot frequency and on the use of accrued BIL AIG-Allocated funds.
16. Q-U52 needs details on how the FAA share of BIL AIG-Allocated will be determined in the case where a subgrantee rolls a year of funding into the next year then takes a grant.
17. Q-U57 needs details on usable unit of work as a percentage or a dollar value of a portion of the larger project or if it can only cover a phase of the larger project.
18. Q-U61 needs details on Build America, Buy America (BABA) Act. Training by the FAA on this topic would be very helpful to states.
19. FAA consideration or options are needed to address the time subgrantees' bids must be held for both BIL- and AIP-funded projects.
20. Q-A2 needs more details about whether State Block Grant Program (SBGP) states may be able issue subawards to airport sponsors that combines AIP and BIL funds.
21. Q-SB1 needs address the fact that BIL administration by the SBGP states is not included in any of the SBGP MOAs.
22. Q-SB1 needs more details on how the SBGP states will administer BIL funds and what FAA's involvement, if any, will be in the oversight of the BIL funds.
23. Q-SB2 needs further clarification since the 49 USC 47128 only requires AIP funds sourced from the Airport and Airway Trust Fund are to be administered by SBGP states, which is different from how BIL funds are designated and sourced.
24. Q-SB2 needs further clarification since BIL is not AIP and SBGP states should be issued the same program administration share that FAA does (3%) from BIL.
25. Q-SB4 needs clarification on how FAA views BIL AIG-Allocated funds' NEPA approvals.
26. SBGP guidance is needed to recover or deobligate BIL funds from subawardee projects that are completed under budget.
27. SBGP guidance is needed to understand the Period of Availability of funds possibly returned to the FAA as project underruns.
28. SBGP guidance on submitting BIL AIG-Allocated grant applications to the FAA and FAA's subsequent grant offers are needed.
29. SBGP guidance on the process and timing of amendments is needed.
30. SBGP guidance on BIL reporting requirements and frequency are needed.
31. SBGP guidance is needed on regarding FAA's statement that grant applications for BIL AIG-Allocated must be based on bids or negotiated amounts.