



DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2023–0004]

Inflation Reduction Act, Request for Information

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice; request for information (RFI).

SUMMARY: FHWA seeks public input on the implementation of section 60505: Environmental Review Implementation Funds, of the Inflation Reduction Act (IRA).

DATES: Comments must be received on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit all comments by only one of the following ways:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov> and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE, Washington, DC 20590, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays. The telephone number is (202) 366-9329.
- *Instructions:* You must include the agency name and the docket number, FHWA-2021-0021, at the beginning of your comments. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

- *Privacy Act:* Except as provided below, all comments received into the docket will be searchable by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477) or at <http://www.regulations.gov/privacy>.

FOR FURTHER INFORMATION CONTACT: For questions about this RFI, please contact James G. Gavin, FHWA Office of Planning, Environment, and Realty, (202) 366-1473, or via email at James.Gavin@dot.gov. For legal questions, please contact Ms. Diane Mobley, FHWA Office of the Chief Counsel, (202) 366-1366, or via email at Diane.Mobley@dot.gov. Office hours for FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

A copy of this notice, all comments received on this notice, and all background material may be viewed online at <https://www.regulations.gov> using the docket number listed above. Electronic retrieval help and guidelines are also available at <https://www.regulations.gov>. An electronic copy of this document may be downloaded from the Office of the Federal Register's Website at: www.FederalRegister.gov and the Government Publishing Office's Website at: www.GovInfo.gov.

Background

On August 16, 2022, President Joseph R. Biden, Jr. signed the IRA, Public Law 117-159 (August 16, 2022), delivering on his promise to build an economy that works for working families.

The IRA provides over \$1 billion over the next 10 years to several Federal agencies to facilitate efficient and effective reviews under the National Environmental

Policy Act and other Federal processes. This could include identifying new strategies that would mitigate environmental impacts and thereby reduce timeframes for environmental reviews. More information on the IRA can be located at www.whitehouse.gov or at <https://www.congress.gov/bill/117th-congress/house-bill/5376/>.

To make the most of the IRA's historic investment and new opportunities, FHWA is seeking input on section 60505, Environmental Review Implementation Funds. This provision amends title 23, United States Code (U.S.C.) by adding 23 U.S.C. 178, and provides \$100 million, available until September 30, 2026, to the Federal Highway Administrator. Funds under this program may be made available to eligible entities to support environmental reviews of surface transportation projects. Eligible entities for this purpose are: a State; a unit of local government; a political subdivision of a State; a Territory of the United States; an entity described in 23 U.S.C. 207(m)(1)(E); a recipient of funds under 23 U.S.C. 203; and a metropolitan planning organization (as defined in 23 U.S.C. 134(b)(2)). The funds may also be used by FHWA to develop guidance, technical assistance, templates, training, or other tools to facilitate an efficient and effective environmental review process for surface transportation projects.

The overwhelming majority of transportation projects can generally be processed with limited environmental documentation as categorical exclusions (CE). Project delay issues are more likely to occur on projects with the potential to cause significant environmental effects. However, even for that subset of projects, environmental review and permitting is often not the primary source of project delay. Previous efforts to assess challenges to project delivery have identified multiple factors that are greater contributors to project delays than issues with environmental review and permitting. These factors include inadequate project funding, increased capital costs, lack of consensus on multi-jurisdictional projects, low project prioritization, project complexity, local controversy,

and changes in project scope.¹ While improvements to the environmental review and permitting process may not directly address these challenges, FHWA is seeking evidence-based solutions that can both increase the efficiency of environmental reviews and potentially mitigate the primary sources of delay.

Through this RFI, FHWA is soliciting information and suggestions from the public and stakeholders across the public and private sectors on how best to facilitate FHWA's implementation of this provision. While the public will have further opportunities to provide input as the implementation process unfolds, this notice provides an early way for stakeholders to submit information that can help inform FHWA's implementation of this provision.

Request for Information

This RFI is intended to solicit information on potential opportunities and challenges for implementing section 60505 of the IRA, including: (i) suggestions as to how FHWA might implement this section; (ii) necessity for additional guidance, tools, training, templates, or program changes; (iii) program areas requiring new and continued research. While Congress has specified that these funds will be administered by FHWA, the purpose of the funds is broadly to support environmental reviews of surface transportation projects, which may include rail projects funded by the Federal Railroad Administration and public transportation projects funded by the Federal Transit Administration. FHWA specifically requests comments on how these funds may be used to support this broader group of projects, including those that do not have FHWA involvement.

Content of Comments

¹ See U.S. Department of the Treasury *40 Proposed U.S. Transportation and Water Infrastructure Projects of Major Economic Significance* (2016), Congressional Research Service *Accelerating Highway and Transit Project Delivery: Issues and Options for Congress* (2011), and National Cooperative Highway Research Program *Accelerating Transportation Project and Program Delivery: Conception to Completion* (2010).

The Department will review all comments submitted to the docket associated with this Notice, FHWA-2023-0004. FHWA encourages commenters to provide the following information:

1. Detailed information that you think FHWA should consider while implementing section 60505 of IRA. For example: Are there constraints in existing programs that could be addressed with additional funding?
2. Detailed description of the action(s) you think FHWA should take in response to the opportunity or challenge(s) identified within existing program areas. For example: financial assistance in the development of statewide databases to facilitate project reviews; development of an aid to assist FHWA in early coordination; or the development of programmatic consultations to accelerate review processes.
3. Detailed information on what types of assistance and on what topical areas would be most beneficial to recipients of direct funding and will facilitate an efficient and effective environmental review process for surface transportation projects. For example: types of technical assistance or training, liaisons to assist in resource studies, tools like geographic information systems to assist with project planning, scoping, or analysis.
4. Detailed information on what program areas would most benefit from new or continued research. For example: Are there additional research needs for specific subject or program areas (planning and environment linkages, public involvement, use of CEs, etc.)?
5. Detailed information on ways in which FHWA can make resources available to the eligible entities described in 23 U.S.C. 178(c)(2) while promoting equity and maximizing the opportunity to improve the efficiency and effectiveness of the environmental review process. For example: Webinars and training to promote the Screening Tool for Equity Analysis of Projects and the FHWA Environmental Review Toolkit.

Scope of Comments

The FHWA is interested if there are additional opportunities to make improvements or accelerate the environmental review process for existing surface transportation programs, in addition to other State, local, and Tribal programs, for example through the use of Programmatic Approaches.

Although FHWA is seeking public input on the implementation on section 60505 of the IRA through this RFI, it may issue guidance and begin other activities related to implementation while this docket remains open.

Under this notice, FHWA is not soliciting petitions for rulemaking or comments on any ongoing rulemaking action.

Andrew Rogers,

Deputy Administrator,

Federal Highway Administration.

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