



January 19, 2022

The Honorable Stephanie Pollack
Acting Administrator
Federal Highway Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

RE: Docket # FHWA-2021-0021

Dear Administrator Pollack:

On behalf of 1,300 members across the U.S. representing state and local governments, Metropolitan Planning Organizations (MPOs), Regional Transit Agencies (RTAs), transportation service providers, major employers, universities, nongovernmental organizations (NGOs), and other stakeholders, the Association for Commuter Transportation (ACT) submits the comments below in response to the Federal Highway Administration's (FHWA's) Request for Information: Infrastructure Investment and Jobs Act (IIJA) (Docket# FHWA-2021-0021).

ACT supports a more efficient and effective transportation system that prioritizes the use of Transportation Demand Management (TDM) strategies to combat congestion and greenhouse gas emissions through innovative technologies, resulting in increased connectivity and mobility. As FHWA seeks input on implementation of the Bipartisan Infrastructure Law (BIL), ACT strongly urges the agency to incorporate forward-looking TDM goals that can transform and improve the United States public transportation system while further reducing congestion, improving mobility, ensuring inclusiveness for disadvantaged populations, and addressing climate change. The list below includes overarching comments regarding BIL implementation as well as comments specific to individual sections of the infrastructure bill.

General Comments

- *Adopt definition for TDM and clarify eligibility of TDM strategies.*
 - TDM, as defined in the House-passed INVEST in America Act, is “the use of strategies to inform and encourage travelers to maximize the efficiency of a transportation system leading to improved mobility, reduced congestion, and lower vehicle emissions.”
 - TDM strategies, also defined in the INVEST in America, is “the use of planning, programs, policy, marketing, communications, incentives, pricing, and technology to shift travel mode, routes used, departure times, number of trips, and location and design workspace or public attractions.”
 - TDM is both eligible and encouraged in specific programs within the BIL including the Congestion Mitigation and Air Quality Improvement (CMAQ) Program (Section 11115), the Carbon Reduction Program (Section 11403), the Congestion Relief Program (Section 11404), and the Safe Streets and Roads for All Program (Section 24112).



- *Eliminate existing barriers preventing States, MPOs, and local governments from subcontracting with local organizations that have specialized transportation demand expertise during project implementation by clarifying where such contracts are permitted or not permitted.*
- *Ensure that nonprofit organizations such as Transportation Management Associations (TMAs) are eligible to apply for new program funding within the BIL.*
 - *TMAs should be able to serve as direct recipients of a grant award instead of applying through local governments to minimize unnecessary layers within the application process – especially when many TMAs already contract with State Departments of Transportation (DOTs) and regional MPOs.*
- *Assess existing overhead reporting requirements and determine whether these requirements are equitable for both nonprofit organizations and for-profit firms and adjust reporting requirements based on findings.*
 - *Overhead requirements required within some federal transportation funding programs can be burdensome for nonprofit organizations and prohibit many from participating in comparison to for-profit firms that have a built-in profit ratio and are able to adjust quickly to changes in governmental reporting requirements.*

Section-Specific Comments

Section 11115. Congestion Mitigation and Air Quality Improvement Program

- *Prioritize innovative transportation demand management solutions and allow the development of marketing and advertising campaigns to promote public awareness of these tools to maximize utilization and help reduce vehicle trips.*
 - *FHWA should encourage the use of CMAQ funding for technology and awareness campaigns to complement spending on construction or enhancing traffic signals that only temporarily alleviate traffic conditions instead of reducing overall vehicle trips.*
- *Remove or significantly reduce certain eligible projects under CMAQ that do not truly align with the purposes of the program.*
 - *Intersection expansions and roadway “rightsizing” projects designed to move idling traffic should not be considered eligible projects for funding under CMAQ as this is induced demand.*
- *Reduce the current 50% funding match requirement for private firms under CMAQ as it limits creative solutions due to the high matching threshold.*
- *Review existing exceptions to the 20% local public matching requirement under CMAQ like Intelligent Transportation System and Traffic Flow Projects that do not require local matching funds to prevent a disproportionate amount of CMAQ funding being spent on these and other particular types of projects due to existing exceptions.*
 - *Transportation demand management (TDM) strategies focused on behavior change often lead to more permanent reduction of congestion and should be eligible for a reduced public matching requirement.*
- *Recognize that the ability for State DOTs to transfer up to 50% of their CMAQ funding to other programs minimizes the collective impact of CMAQ nationwide and ability to track and report emissions reductions for CMAQ-funded projects.*



- This is particularly true if State DOTs transfer CMAQ funding to programs like the Surface Transportation Block Grant (STBG) Program or the National Highway Performance Program (NHPP).
- *Coordinate with FTA and FHWA to develop CMAQ project guidelines and regulations that are more consistent with each other.*
 - While CMAQ projects are currently guided by either FHWA or FTA requirements, significant differences in applicable regulations and the extent to which these regulations are applied to a project, depending on regions of the United States, make some eligible project significantly easier to implement than other types of eligible projects.

Section 11205. Travel Demand Data and Modeling

- *Examine TDM and TDM strategies as part of this congressionally-directed study utilizing travel demand forecast data to develop guidance and best practices for MPOs to forecast future travel demand and evaluate impact of transportation investments.*

Section 11403. Carbon Reduction Program

- *Establish clear guidance on how State DOTs should administer the formula grant funding they will receive under the Carbon Reduction Program.*

Section 11404. Congestion Relief Program

- *Create clear guidance on what eligible projects include and how eligible entities of the new Congestion Relief Program can compete for this discretionary grant funding.*
- *Develop fair and equitable federal metrics to create an “apples to apples” comparison that accounts for the differences between projects encouraging better utilization of existing infrastructure and projects that involve construction of new infrastructure.*
- *Focus of this new program should be on person throughput and not only on vehicle throughput, which would incentivize the use of more efficient transportation modes that maximize the use of vehicle and roadway capacities and TDM solutions that encourage the shifting of behavior to these modes.*

Section 11513. Buy America

- *Provide additional clarity on FHWA Buy America and National Environmental Policy Act (NEPA) requirements for CMAQ-funded bicycle racks subject to these requirements.*
 - Address whether specific bicycle rack sites and/or locations need to be identified in applications so that NEPA review can be completed for individual bicycle rack locations after funds are awarded.
 - Clarify as well as standardize national FHWA Buy America requirements and review current approval processes as existing requirements under Buy America requirements



pose a significant obstacle for federally-funded TDM projects incorporating bicycle racks made of iron or steel.

- *Address Buy America-related issues regarding electrical vehicles and charging infrastructure.*

Thank you for the opportunity to provide comments on the implementation of this historic infrastructure legislation. We look forward to your review of our comments and to expanding our partnership with the FHWA to improve mobility through the application of TDM strategies while mitigating congestion and limiting transportation emissions. Please do not hesitate to reach out should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "David Straus".

David Straus
Executive Director
Association for Commuter Transportation