

Moving Ahead for Progress in the 21st Century Act (MAP-21)

A Summary of Public Transportation Provisions

Federal Transit Administration

Overview

On July 6, 2012 President Obama signed into law a new two-year transportation authorization, entitled Moving Ahead for Progress in the 21st Century (MAP-21). The new law authorizes \$10.6 billion in FY 2013 and \$10.7 billion in FY 2014 for public transportation.

MAP-21 furthers several important goals, including safety, state of good repair, performance, and program efficiency. MAP-21 gives FTA significant new authority to strengthen the safety of public transportation systems throughout the United States. The act also puts new emphasis on restoring and replacing our aging public transportation infrastructure by establishing a new needs-based formula program and new asset management requirements. In addition, it establishes performance-based planning requirements that align Federal funding with key goals and tracks progress towards these goals. Finally, MAP-21 improves the efficiency of administering grant programs by consolidating several programs and streamlining the major capital investment grant program known as “New Starts.” These, and other important changes, are summarized in this document.

While this summary focuses on the transit title (Division B, including amendments to chapter 53 of title 49, United States Code), several provisions that reside in the highway title (Division A, including amendments to title 23, United States Code) also affect transit. These provisions include performance measures in transportation planning, the Transportation Infrastructure Finance and Innovation Act (TIFIA), the Surface Transportation Program (STP), the Congestion Management and Air Quality program (CMAQ), and acceleration of project delivery through streamlining environmental reviews. A summary of these provisions can be found at <http://www.fhwa.dot.gov/map21/summaryinfo.cfm>.

MAP-21 will take effect on October 1, 2012. Until then, FTA will continue to manage agency programs under existing law (SAFETEA-LU), which expires on September 30, 2012.

New Programs

Safety (5329)¹

MAP-21 grants FTA the authority to establish and enforce a new comprehensive framework to oversee the safety of public transportation throughout the United States. FTA will implement the new law in consultation with the transit community and the U.S. Department of Transportation’s (DOT) Transit Rail Advisory Committee for Safety (TRACS), which has been working since September of 2010 to help guide this effort.

¹ Section numbers are provided in parentheses in order to refer readers to the relevant sections of Title 49 of the United States Code.

Safety performance criteria and standards

Under the new law, FTA must develop safety performance criteria for all modes of public transportation (rail, bus, etc.). FTA must also develop minimum safety performance standards for vehicles not regulated by other Federal agencies. In addition, FTA must develop a public transportation safety certification training program for individuals involved in transit safety.

Grantee safety plans

The new law requires all recipients of FTA funding to develop agency safety plans that include performance targets, strategies, and staff training. For rural recipients, the plan may be drafted by the State. For small urban systems, FTA must issue a rule designating which small urban systems may have their safety plans drafted by the State. These measures and targets must be incorporated into metropolitan and statewide transportation plans and transportation improvement programs.

State Safety Oversight

MAP-21 includes new requirements for the State Safety Oversight (SSO) program, through which States with heavy rail, light rail, and streetcar systems must establish safety oversight for these transit systems. MAP-21 requires State Safety Oversight Agencies (SSOAs) to be legally and financially independent from the rail systems they oversee, and have the authority, staff training, and expertise to enforce Federal and State safety laws. FTA must certify whether each SSO is adequate and meets the requirements. FTA will oversee implementation of the SSO programs and audit each SSO agency at least triennially.

Funding for State Safety Oversight

The law also directs FTA to distribute funding via formula to support State safety oversight work. The funding is a takedown (one-half of one percent) from the Urbanized Area Formula program, and totals approximately \$22 million per year. A 20 percent local match is required for these funds.

Additional Authorities

The new law provides FTA with several additional authorities including the authority to inspect and audit all public transportation systems; to make reports and issue directives with respect to the safety of public transportation systems; to issue subpoenas and take depositions; to require the production of documents; to prescribe record-keeping and reporting requirements; to investigate public transportation accidents and incidents; to enter and inspect equipment, rolling stock, operations and relevant records; and to issue regulations to carry out transit safety provisions.

MAP-21 also grants FTA enforcement authority and permits FTA to issue directives, require more frequent oversight of transit systems, impose more frequent reporting requirements, and require that formula grant funds be spent to correct safety deficiencies before funds are spent on other projects.

State of Good Repair Grants (5337)

MAP-21 establishes a new grant program to maintain public transportation systems in a state of good repair. This program replaces the fixed guideway modernization program (Section 5309). Funding is limited to fixed guideway systems (including rail, bus rapid transit, and passenger ferries) and high intensity bus (high intensity bus refers to buses operating in high occupancy vehicle (HOV) lanes.) Projects are limited to replacement and rehabilitation, or capital projects required to maintain public transportation systems in a state of good repair. Projects must be included in a transit asset management plan (see next section) to receive funding. The new formula comprises: (1) the former fixed guideway modernization formula; (2) a new service-based formula; and (3) a new formula for buses on HOV lanes. Authorized funding for this program is \$2.1 billion in FY 2013 and \$2.2 billion in FY 2014.

Asset Management Provisions (5326)

MAP-21 requires FTA to define the term “state of good repair” and create objective standards for measuring the condition of capital assets, including equipment, rolling stock, infrastructure, and facilities. Based on that definition, FTA must then develop performance measures under which all FTA grantees will be required to set targets. All FTA grantees and their subrecipients are required to develop transit asset management plans. These plans must include, at a minimum, capital asset inventories, condition assessments, and investment prioritization. Each designated recipient of FTA formula funding will be required to report on the condition of its system, any change in condition since the last report, targets set under the above performance measures, and progress towards meeting those targets. These measures and targets must be incorporated into metropolitan and statewide transportation plans and transportation improvement programs (TIPs). FTA will support this effort through technical assistance, including the development of an analytical process or decision support tool that allows recipients to estimate their capital investment needs over time and assists with asset investment prioritization.

Bus and Bus Facilities Program (5339)

A new formula grant program is established under Section 5339, replacing the previous Section 5309 discretionary Bus and Bus Facilities program. This capital program provides funding to replace, rehabilitate, and purchase buses and related equipment, and to construct bus-related facilities. Authorized funding is \$422 million in FY 2013 and \$428 million in FY 2014. Each year, \$65.5 million will be allocated with each State receiving \$1.25 million and each territory (including DC and Puerto Rico) receiving \$500,000. The remaining funding will be distributed by formula based on population, vehicle revenue miles and passenger miles. This program requires a 20 percent local match.

Emergency Relief (5324)

This new program assists States and public transportation systems with emergency-related expenses. Emergencies are defined as natural disasters affecting a wide area or a catastrophic failure from an external cause for which the governor of a State has declared an emergency (and the Secretary of Transportation has concurred) or the President has declared a major disaster. The program funds

capital projects to protect, repair, reconstruct, or replace equipment and facilities. It also funds transit agency operating costs related to evacuation, rescue operations, temporary public transportation service, or changing public transportation route service before, during, or after an emergency in an area directly affected. The grants only cover expenses not reimbursed by the Federal Emergency Management Agency (FEMA). The program will provide immediate funding, similar to the FHWA emergency program. Funding will be appropriated by Congress as needed.

Transit-Oriented Development Planning Pilot

MAP-21 creates a new discretionary pilot program for transit-oriented development (TOD) planning grants. Eligible activities include comprehensive planning in corridors with new rail, bus rapid transit, or core capacity projects.² The comprehensive plans should seek to enhance economic development, ridership, and other goals; facilitate multimodal connectivity and accessibility; increase access to transit hubs for pedestrian and bicycle traffic; enable mixed-use development; identify infrastructure needs associated with the project; and include private sector participation. MAP-21 authorizes \$10 million for FY 2013 and \$10 million for FY 2014.

Consolidated Programs

Urbanized Area Formula Grants (5307)

The largest of FTA's grant programs, this program provides grants to urbanized areas³ to support public transportation. Funding is distributed by formula based on the level of transit service provision, population, and other factors. Total funding is \$4.9 billion in FY 2013 and \$5 billion in FY 2014 (includes the Growing States and High Density States formula). The program remains largely unchanged with a few exceptions:

Job access and reverse commute activities now eligible

Activities eligible under the former Job Access and Reverse Commute (JARC) program, which focused on providing services to low-income individuals to access jobs, are now eligible under the Urbanized Area Formula program. This includes operating assistance with a 50 percent local match for job access and reverse commute activities. In addition, the urbanized area formula for distributing funds now includes the number of low-income individuals as a factor. There is no floor or ceiling on the amount of funds that can be spent on job access and reverse commute activities.

Expanded eligibility for operating expenses for systems with 100 or fewer buses

MAP-21 expands eligibility for using Urbanized Area Formula funds for operating expenses. Previously, only urbanized areas with populations below 200,000 were eligible to use Federal transit funding for

² MAP-21 states that grants under this subsection are to "assist in financing comprehensive planning associated with an eligible project" and that "eligible project" means a new fixed guideway capital project or core capacity improvement project, as those terms are defined in [49 U.S.C. 5309 (Capital Investment Grants / "New Starts").]

³ An urbanized area is an area with a population of 50,000 or more that has been defined and designated in the most recent decennial census as an 'urbanized area' by the Census Bureau.

operating expenses. Now, transit systems in urbanized areas over 200,000 can use their formula funding for operating expenses if they operate no more than 100 buses. Systems operating between 76 and 100 buses in fixed route service during peak service hours may use up to 50 percent of their “attributable share”⁴ of funding for operating expenses. Systems operating 75 or fewer buses in fixed-route service during peak service hours may use up to 75 percent of their “attributable share” of funding for operating expenses. This expanded eligibility for operating assistance under the Urbanized formula program excludes rail systems.

New discretionary passenger ferry grants

\$30 million per year is set-aside from the Urban formula program totals to support passenger ferries. Funding will be awarded on a competitive selection basis.

New takedown for safety oversight

MAP-21 sets aside one half of one percent (approximately \$22 million per year) of Urbanized Area Formula funds for State safety oversight grants (see above section on safety).

Rural Area Formula Grants (5311)

This program provides capital, planning, and operating assistance to support public transportation in rural areas, defined as areas with fewer than 50,000 residents. Funding is based on a formula that uses land area, population, and transit service. Total funding is \$600 million in FY 2013 and \$608 million in FY 2014. The program remains largely unchanged with a few exceptions:

Job access and reverse commute activities eligible

Activities eligible under the former Job Access and Reverse Commute (JARC) program, which provided services to low-income individuals to access jobs, are now eligible under the Rural Area Formula program. In addition, the formula now includes the number of low-income individuals as a factor. There is no floor or ceiling on the amount of funds that can be spent on job access and reverse commute activities.

Tribal Program

The Tribal program now consists of a \$25 million formula program and a \$5 million discretionary grant program. Formula factors include vehicle revenue miles and the number of low-income individuals residing on tribal lands.

Appalachian Development Public Transportation Assistance Program

MAP-21 authorizes \$20 million each for FY 2013 and FY 2014 for grants to support public transportation in the Appalachian region.

⁴ Attributable share refers to the share of the urbanized area’s apportionment that is attributable to a transit system based on the transit system’s share of vehicle revenue hours in the urbanized area.

Other changes

The set-aside for States for administration, planning, and technical assistance is reduced from 15 to 10 percent. The cost of the unsubsidized portion of privately provided intercity bus service that connects feeder service is now eligible as in-kind local match.

Enhanced Mobility of Seniors and Individuals with Disabilities (5310)

This program provides formula funding to increase the mobility of seniors and persons with disabilities. Funds are apportioned based on each State's share of the targeted populations and are now apportioned to both States (for all areas under 200,000) and large urbanized areas (over 200,000). The former New Freedom program (5317) is folded into this program. The New Freedom program provided grants for services for individuals with disabilities that went above and beyond the requirements of the Americans with Disabilities Act (ADA). Activities eligible under New Freedom are now eligible under the Enhanced Mobility of Seniors and Individuals with Disabilities program.

Projects selected for funding must be included in a locally developed, coordinated public transit-human services transportation plan; and the competitive selection process, which was required under the former New Freedom program, is now optional. At least 55 percent of program funds must be spent on the types of capital projects eligible under the former section 5310 -- public transportation projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable. The remaining 45 percent may be used for: public transportation projects that exceed the requirements of the ADA; public transportation projects that improve access to fixed-route service and decrease reliance by individuals with disabilities on complementary paratransit; or, alternatives to public transportation that assist seniors and individuals with disabilities. Using these funds for operating expenses requires a 50 percent local match while using these funds for capital expenses (including acquisition of public transportation services) requires a 20 percent local match.

Repealed Programs

MAP-21 focuses on improving the efficiency of grant program operations by consolidating certain programs and repealing other programs. The following programs expire on September 30, 2012 and no new funding is authorized beyond fiscal year 2012:

- Alternatives Analysis (5339),
- Clean Fuels (5308),
- Job Access and Reverse Commute (JARC) (5316),
- New Freedom (5317),
- Transit in the Parks (5320), and
- Over the Road Bus (3038 of TEA-21).

As noted above, in lieu of the current Bus Discretionary Program (section 5309), a new formula-driven Bus and Bus Facilities Program (5339) is established in MAP-21. Eliminating these discretionary programs underscores the need for grantees to carefully prioritize the needs of their own systems and align their capital plans with the new streams of formula assistance provided under MAP-21. With regard to the Transit in the Parks (5320) program, public transportation investments serving National Parks and other Federal lands remain eligible under the Federal Lands Transportation Program administered by the Federal Highway Administration (FHWA). As noted above, job access and reverse commute activities are now eligible under the Urbanized Area Formula program (5307) as well as the Rural Area Formula program (5311). Activities eligible under the former New Freedom program are now eligible under the Enhanced Mobility of Seniors and Individuals with Disabilities program (5310).

Modified Programs

Fixed Guideway Capital Investment Grants (5309)

Also known as “New Starts / Small Starts,” this program awards grants on a competitive basis for major investments in new and expanded rail, bus rapid transit (BRT), and ferry systems. The program is funded at \$1.9 billion dollars for FY 2013 and FY 2014 subject to appropriations by Congress.

Core capacity projects now eligible

MAP-21 adds new eligibility for core capacity improvement projects, that is, projects that expand capacity by at least 10 percent in existing fixed guideway transit corridors that are at or above capacity, or are expected to be at capacity within five years.

Project development streamlined

MAP-21 streamlines the project development process for New Starts. It eliminates the alternatives analysis requirement and instead relies on the review of alternatives performed during the metropolitan planning and environmental review processes. It creates the “Project Development” phase, during which environmental reviews are completed. Project sponsors must complete this phase within two years, or seek an extension from FTA. MAP-21 reduces the number of FTA approval steps by consolidating the “Preliminary Engineering” and “Final Design” stages into a single “Engineering” step. It also requires FTA to develop an expedited review process for determining the technical capacity of project sponsors to undertake the proposed project if they have recently and successfully completed at least one other new fixed guideway or core capacity improvement project.

Project evaluation and rating

Under certain conditions, MAP-21 allows for the use of “warrants,” in other words, ways in which projects may qualify for automatic ratings on the project justification criteria. It also eliminates the operating efficiencies criterion and adds a congestion relief criterion. It requires FTA to evaluate the

benefits of a Small Starts⁵ project against the Federal share of the project, rather than the total project cost when developing the project justification rating.

Reorganization

The fixed guideway modernization and bus and bus facilities programs, which were previously funded under Section 5309, have now been restructured and moved to a new Section 5337 State of Good Repair Program and a new Section 5339 Bus and Bus Facilities Program.

Other Provisions

MAP-21 creates a competitive pilot program for expedited project delivery. In addition, it funds Small Starts projects through a single year grant or an expedited grant agreement. New Starts and core capacity projects are funded through a full funding grant agreement (FFGA). Congressional notification of grant award is 10 days for Small Starts projects and 30 days for New Starts and core capacity projects. MAP-21 requires FTA to issue policy guidance on the process and evaluation criteria within 180 days of enactment, and a rule within one year of enactment.

Metropolitan, Statewide, and Nonmetropolitan Planning Programs (5303, 5304, and 5305)

These programs provide funding and procedural requirements for multimodal transportation planning in metropolitan areas and States that is cooperative, continuous, and comprehensive, resulting in long-range plans and short-range programs of transportation investment priorities. \$127 million is authorized in FY 2013 and \$129 million in FY 2014. The planning programs are jointly administered by FTA and FHWA, which also provides additional funding.

Establishes a performance-based planning process

MAP-21 requires Metropolitan Planning Organizations (MPOs) and States to establish performance targets that address national performance measures issued by the U.S. DOT and are based on goals outlined in law – safety, infrastructure condition, congestion reduction, system reliability, economic vitality, environmental sustainability, reduced project delivery delays, transit safety, and transit asset management. Transportation Improvement Programs (TIPs) must include a description of the anticipated progress toward achieving the targets brought about by implementing the TIP. Five years after enactment of MAP-21, the U.S. DOT will report to Congress on the effectiveness of performance-based planning and assess the technical capacity of MPOs in smaller areas to undertake performance-based planning.

Requires transit representation on MPO policy boards in large areas

Within two years of the date of enactment, MPOs in urbanized areas designated as transportation management areas must include transit officials on their policy boards.

Supports optional scenario development

⁵ Small Starts projects have a net capital cost of less than \$250 million and a Federal share of less than \$75 million.

MPOs may undertake scenario development exercises in preparing the long-range transportation plan that consider alternative demographic growth, revenue options, and other factors.

Allows designation of regional transportation planning organizations

Regional transportation planning organizations comprised of volunteer local government and transportation officials may be designated to assist the State in addressing the needs of non-metropolitan areas. Accordingly, “statewide planning” has been renamed “statewide and non-metropolitan planning” to signify the important role local officials play in the development of statewide plans and programs in non-metropolitan areas of States.

Research, Development, Demonstration, and Deployment (5312)

Previous Section 5312 (Research, development, demonstration, and deployment projects) and Section 5314 (National research programs) are now consolidated into one program under Section 5312. MAP-21 authorizes \$70 million annually for FY 2013 and FY 2014 subject to appropriations by Congress. Funding supports public transportation research; innovation and development; and demonstration, deployment, and evaluation. Projects under this last category require a project evaluation within two years of award. MAP-21 creates a new low or no emissions vehicle deployment program. FTA is required to submit an annual report to Congress that includes a description of projects funded, an evaluation of each project described, and a proposed allocation of assistance for the next fiscal year. MAP-21 requires a local match of not less than 20 percent for Section 5312 projects.

Technical Assistance and Standards (5314)

MAP-21 authorizes \$7 million annually for FY 2013 and FY 2014 in discretionary funding subject to appropriations by Congress for a wide range of technical assistance activities and development of voluntary standards and best practices. (Previously, some of these activities were funded under research) A local match of not less than 20 percent is required for projects carried out using a grant. An annual report to Congress is required, similar to the one for the research section above.

Human Resources and Training (5322)

The act authorizes \$5 million subject to appropriations by Congress in each of FY 2013 and FY 2014 for human resource activities including: employment training and outreach programs; research on public transportation personnel and training needs; and training and assistance for minority business opportunities. MAP-21 authorizes a competitive grant program to support innovative public transportation workforce development. A 50 percent local match is required for this competitive grant program. FTA must submit a report to Congress on measurable outcomes and impacts of the programs funded.

MAP-21 also authorizes \$5 million subject to appropriations by Congress in each of FY 2013 and FY 2014 for a national transit institute. Formerly authorized under Section 5315, this national transit institute is to develop training and education programs related to topics in public transportation and must be administered through a public, four-year degree-granting institution.

Other Notable Provisions

Buy America

FTA must submit an annual report to Congress on any Buy America waivers for transit grants.

Veterans Preference

MAP-21 includes veteran's preference for employment on transit construction projects.

Private Sector Participation

MAP-21 requires FTA to provide technical assistance requested by project sponsors and grantees on best practices and methods for using private providers of public transportation, and on how to use public-private partnerships for alternative project delivery of fixed guideway capital projects. MAP-21 also requires FTA to identify public transportation laws, regulations or practices that impede public-private partnerships or private investment in transit capital projects. FTA must also develop procedures through regulation to address these legal impediments, as well as procedures to protect the public interest and any public investment in public transportation capital projects that involves public-private partnerships or private investment. FTA must also develop guidance to promote greater transparency and public access to public-private partnership agreements. A new pilot program for expedited project delivery established under the "New Starts / Small Starts" section (5309) may provide opportunities for public-private partnerships. A new provision related to private providers of vanpool service expands what is eligible as local match and permits excess revenues to be used to acquire rolling stock for use in the service area.

Bus Testing

MAP-21 requires FTA to develop a new pass/fail standard for testing new model buses. Vehicles that do not receive a pass rating are not eligible to be purchased with Federal funds.

Transit Cooperative Research Program

MAP-21 authorizes \$7 million subject to appropriations by Congress in each of FY 2013 and FY 2014 to continue the Transit Cooperative Research Program (TCRP).

Government Share for Vehicles, Equipment and Facilities for Complying or Maintaining Compliance with the Americans with Disabilities Act or the Clean Air Act

An FTA grant used for acquiring vehicles to comply with or maintain compliance with the Americans with Disabilities Act (ADA) or the Clean Air Act can now cover 85 percent of net project costs. FTA grants for vehicle-related equipment or facilities needed to comply with or maintain compliance with the ADA or Clean Air Act remains at 90 percent of net project costs of the equipment or facilities attributable to compliance with the Act (the incremental cost).

For More Information

Additional information related to MAP-21 is available on the FTA website at <http://www.fta.dot.gov/map21>. As implementation of the new law progresses, more material will be posted.