

# MAP-21 - Moving Ahead for Progress in the 21st Century

## TRANSPORTATION ALTERNATIVES INTERIM GUIDANCE

### PROGRAM PURPOSE

The Transportation Alternatives Program (TAP) authorized under Section 1122 of MAP-21 (23 U.S.C. 213(b), 101(a)(29)) provides funding for programs and projects defined as transportation alternatives, including on- and off-road pedestrian and bicycle facilities, infrastructure projects for improving non-driver access to public transportation and enhanced mobility, community improvement activities, and environmental mitigation; recreational trail program projects; safe routes to school projects; and projects for the planning, design or construction of boulevards and other roadways largely in the right-of-way of former Interstate System routes or other divided highways.

### GOVERNING AUTHORITIES

Section 1122 of the Moving Ahead for Progress in the 21st Century Act (MAP-21) established TAP in 23 U.S.C. 213. Section 1105 of MAP-21 provides for the apportionment of funds in 23 U.S.C. 104(b), from which TAP funding is set aside.

The following sections of title 23 are applicable to TAP:

- a. 23 U.S.C. 104 Apportionment
- b. 23 U.S.C. 106 Project approval and oversight
- c. 23 U.S.C. 109 Standards
- d. 23 U.S.C. 112 through 116 Letting of contracts; Prevailing rate of wage; Construction; Advance Construction; Maintenance
- e. 23 U.S.C. 120 Federal share payable
- f. 23 U.S.C. 123 Relocation of utilities
- g. 23 U.S.C. 126 Transferability of Federal-aid highway funds
- h. 23 U.S.C. 133 Surface Transportation Program
- i. 23 U.S.C. 134 Metropolitan transportation planning
- j. 23 U.S.C. 135 Statewide transportation planning
- k. 23 U.S.C. 149 Congestion mitigation and air quality improvement program
- l. 23 U.S.C. 206 Recreational trails program
- m. 23 U.S.C. 213 Transportation alternatives
- n. 23 U.S.C. 217 Bicycle transportation and pedestrian walkways
- o. 23 U.S.C. 319 Landscaping and scenic enhancement
- p. 23 U.S.C. 323 Donations and credits
- q. 23 U.S.C. 328 Eligibility for environmental restoration and pollution abatement
- r. 23 U.S.C. 329 Eligibility for control of noxious weeds and aquatic noxious weeds and establishment of native species

Activities eligible under the following section of Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109-59) are eligible under TAP:

- a. Section 1404 (SAFETEA-LU) Safe Routes to School Program (23 U.S.C. 402 note)

The following section of MAP-21 is also applicable to TAP:

- a. Section 1524 Use of Youth Service and Conservation Corps

## A. FUNDING

**Funding Levels under MAP 21:** Section 1122 of MAP-21 provides for the reservation of funds apportioned to a State under section 104(b) of title 23 to carry out TAP. The national total reserved for TAP is equal to 2 percent of the total amount authorized from the Highway Account of the Highway Trust Fund for Federal-aid highways each fiscal year. (23 U.S.C. 213(a))

The following table shows the national total for TAP under MAP-21:

FY 2013	\$808,760,000
FY 2014	\$819,900,000
TOTAL	\$1,628,660,000

Each State's TAP funding is determined by dividing the national total among the States based on each State's proportionate share of FY 2009 Transportation Enhancements funding. Within each State, the amount for TAP is set aside proportionately from the State's National Highway Performance Program (NHPP), Surface Transportation Program (STP), Highway Safety Improvement Program (HSIP), Congestion Mitigation and Air Quality Improvement Program (CMAQ), and Metropolitan Planning apportionments. (23 U.S.C. 213(a))

The Fiscal Management Information System (FMIS) program codes will be provided in a memorandum to the FHWA Division Offices and States when the program codes are finalized.

**Period of Availability:** TAP is funded by contract authority from the Highway Account of the Highway Trust Fund. TAP funds are available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized (23 U.S.C. 118).

**Obligation Limitation:** TAP funds are subject to the annual obligation limitation imposed on the Federal-aid highway program.

**Federal share:** The Federal share for TAP projects is governed by 23 U.S.C. 120. The Federal share generally is 80 percent, subject to the sliding scale adjustment. Recreational Trails Program (RTP) projects funded under the RTP set-aside shall use the RTP Federal share provisions under 23 U.S.C. 206(f), which allows some additional flexibility, especially for the non-Federal share.

**Transfer of funds:** A State may transfer up to 50% of TAP funds to NHPP, STP, HSIP, CMAQ, and/or Metro Planning. The amount transferred must come from the portion of TAP funds available for use anywhere in the State (no transfers of suballocated TAP funds or funds set aside for the RTP, which are discussed below). [§1509; 23 U.S.C. 126]

If a transit project eligible under TAP is selected, funds for such project may be transferred to FTA to administer the project in accordance with chapter 53 of title 49. (23 U.S.C. 104(f)).

**Flexibility of Excess Reserved Funding:** Additional guidance on this provision will be provided.

## B. ELIGIBILITY

Funds apportioned to a State to carry out the TAP may be obligated only for the activities described below.

There is no requirement for TAP projects to be located along Federal-aid highways. SRTS projects must be within approximately two miles of a school for kindergarten through eighth grade as specified in SAFETEA-LU Section 1404. (23 U.S.C. 402 note)

**Eligible Activities:** Under 23 U.S.C. 213(b) eligible activities under the TAP program consist of:

1. Transportation Alternatives as defined in 23 U.S.C. 101(a)(29) (MAP-21 1103):
  - A. Construction, planning, and design of on-road and off-road trail facilities for pedestrians, bicyclists, and other nonmotorized forms of transportation, including sidewalks, bicycle infrastructure, pedestrian and bicycle signals, traffic calming techniques, lighting and other safety-related infrastructure, and transportation projects to achieve compliance with the Americans with Disabilities Act of 1990.
  - B. Construction, planning, and design of infrastructure-related projects and systems that will provide safe routes for non-drivers, including children, older adults, and individuals with disabilities to access daily needs.
  - C. Conversion and use of abandoned railroad corridors for trails for pedestrians, bicyclists, or other nonmotorized transportation users.
  - D. Construction of turnouts, overlooks, and viewing areas.
  - E. Community improvement activities, including-
    - i. inventory, control, or removal of outdoor advertising;
    - ii. historic preservation and rehabilitation of historic transportation facilities;
    - iii. vegetation management practices in transportation rights-of-way to improve roadway safety, prevent against invasive species, and provide erosion control; and
    - iv. archaeological activities relating to impacts from implementation of a transportation project eligible under title 23.
  - F. Any environmental mitigation activity, including pollution prevention and pollution abatement activities and mitigation to-
    - i. address stormwater management, control, and water pollution prevention or abatement related to highway construction or due to highway runoff, including activities described in sections 133(b)(11), 328(a), and 329 of title 23; or
    - ii. reduce vehicle-caused wildlife mortality or to restore and maintain connectivity among terrestrial or aquatic habitats.
2. The recreational trails program under section 206 of title 23.
3. The safe routes to school program under section 1404 of the SAFETEA-LU.
  - A. Infrastructure-related projects.-planning, design, and construction of infrastructure-related projects on any public road or any bicycle or pedestrian pathway or trail in the vicinity of schools that will substantially improve the ability of students to walk and bicycle to school, including sidewalk improvements, traffic calming and speed reduction improvements, pedestrian and bicycle crossing improvements, on-street bicycle facilities, off-street bicycle and pedestrian facilities, secure bicycle parking facilities, and traffic diversion improvements in the vicinity of schools.
  - B. Noninfrastructure-related activities to encourage walking and bicycling to school, including public awareness campaigns and outreach to press and community leaders, traffic education and enforcement in the vicinity of schools, student sessions on bicycle and pedestrian safety, health, and environment, and funding for training, volunteers, and managers of safe routes to school

programs.

C. Safe Routes to School coordinator.

4. Planning, designing, or constructing boulevards and other roadways largely in the right-of-way of former Interstate System routes or other divided highways.

**Ineligible Activities:** Section 1103 of MAP-21 eliminated the definition of transportation enhancement activities in section 104 of title 23 and inserted in its place a definition of transportation alternatives, which does not include eligibility for certain activities that were previously eligible as transportation enhancements:

- A. Safety and educational activities for pedestrians and bicycles.
 

**Exception:** Activities targeting children in Kindergarten through 8th grade are eligible under SRTS (an eligible activity under the TAP funding).

**Note:** Some of these activities may be eligible under HSIP. Nonconstruction projects for bicycle safety remain broadly eligible for STP funds.
- B. Acquisition of scenic easements and scenic or historic sites.
- C. Scenic or historic highway programs (including visitor and welcome centers).
  - i. Note: A few specific activities under this category (construction of turnouts, overlooks, and viewing areas) remain eligible under section 101(a)(29)(D) of title 23.
- D. Historic preservation as an independent activity unrelated to historic transportation facilities. Note: Historic preservation and rehabilitation of historic transportation facilities are permitted as one type of community improvement activity; see section 101(a)(29)(E).
- E. Operation of historic transportation facilities.
- F. Archaeological planning and research undertaken for proactive planning. This category now must be used only as mitigation for highway projects.
- G. Transportation museums.

## C. ALLOCATION OF FUNDS

**Suballocation:** Fifty percent of a State's TAP apportionment (after deducting the set-aside for the Recreational Trails Program, if applicable) is suballocated to areas based on their relative share of the total State population with the remaining 50 percent available for use in any area of the State. The suballocation is made in the same manner as for STP funds. (23 U.S.C. 213(c)). [See the Q&As regarding [Suballocation of Apportioned Funds](#) for additional detail.]

**Distribution among Urbanized Areas:** States are required to obligate funds in urbanized areas with populations over 200,000 based on their relative share of population, unless the Secretary approves a joint request from the State and relevant MPO(s) to use other factors in determining obligation. (23 U.S.C. 213(c)).

**Selection of Projects:** Consistent with other Federal-aid highway programs, TAP funds are administered by the State Department of Transportation (State DOT). The statute requires the following with respect to the selection of projects:

- TAP funds must be obligated to eligible projects submitted by eligible entities through a competitive process. (23 U.S.C. 213)(c)(4)(A).
- For urbanized areas with populations over 200,000, the MPO, through a competitive process, selects the TAP projects in consultation with the State from proposed projects submitted by eligible entities (listed below in D). (23 U.S.C. 213(c)(3)).
- Funds suballocated to small urban areas and rural areas will be administered by the State. Using a competitive process, the State will select the projects from proposed projects submitted by eligible entities.
- For the RTP set-aside, if applicable, States administer the program through a designated State agency.

This can remain the same agency it has been (for most States, the State resource agency or grant agency), or may be the State DOT. (23 U.S.C. 206(c) and 213(f)).

FHWA encourages State DOTs to develop creative approaches to program structure and project implementation procedures.

States should include public involvement as part of the project selection process, due to the unique nature of TAP and the need for multiple perspectives in decisionmaking. States must ensure compliance with civil rights laws and regulations, and should address environmental justice principles throughout planning and decisionmaking processes. It is FHWA's continuing policy to identify and prevent discriminatory effects by actively administering its programs, policies, and activities to ensure that social impacts to communities and people are recognized early and continually throughout the transportation decisionmaking process from early planning through implementation.

## **D. TREATMENT OF PROJECTS**

The "treatment of projects" requirement (23 U.S.C. 213(e)) means that all projects carried out using TAP funds (except for recreational trails projects carried out under the RTP set-aside) must comply with applicable provisions in title 23, such as project agreements, authorization to proceed prior to incurring costs, prevailing wage rates (Davis-Bacon), competitive bidding, and other contracting requirements, regardless of whether the projects are located within the right-of-way of a Federal-aid highway.

There may be some exceptions for projects that use youth service and conservation corps. (MAP-21 1524).

## **E. ELIGIBLE PROJECT SPONSORS**

Under 23 U.S.C. 213(c)(4)(B), the eligible entities to receive TAP funds are:

- local governments;
- regional transportation authorities;
- transit agencies;
- natural resource or public land agencies;
- school districts, local education agencies, or schools;
- tribal governments; and
- any other local or regional governmental entity with responsibility for oversight of transportation or recreational trails (other than a metropolitan planning organization or a State agency) that the State determines to be eligible, consistent with the goals of subsection (c) of section 213 of title 23.

Under TAP, nonprofits are not eligible as direct grant recipients of the funds. Nonprofits are eligible to partner with any eligible entity on an eligible TAP project, if State or local requirements permit.

## **F. RECREATIONAL TRAILS PROGRAM**

MAP-21 section 1122 amends the RTP to make the funding a set-aside from the TAP. Unless the Governor opts out in advance, an amount equal to the State's FY 2009 RTP apportionment is to be set aside from the State's TAP funds for recreational trails projects. (23 U.S.C. 213(f)-(g)). All RTP provisions and requirements continue under section 206 of title 23. (23 U.S.C. 213(f)(3)).

Under 23 U.S.C. 213(f), if continuing the RTP:

- Each State shall obligate an amount of funds reserved under section 213 of title equal to the amount of the funds apportioned to the State for fiscal year 2009 under section 104(h)(2) for projects relating to recreational trails under section 206.
- Each State shall return 1 percent of those funds to the Secretary for the administration of RTP.
- Each State shall comply with the provisions of the administration of the recreational trails program under section 206, including the use of apportioned funds. Therefore, all RTP provisions and requirements remain unchanged, including the requirement for 40 percent diverse use, 30 percent motorized use, and 30 percent nonmotorized use.

If opting out of the RTP:

- The Governor of the State must notify the Secretary not later than 30 days prior to apportionments being made for any fiscal year. (23 U.S.C. 213(g)). Any State that desires to opt out of the RTP set-aside should notify FHWA via email, with a letter signed by the Governor or the Governor's designee accompanying the opt-out notification, to the HCFB-1 official mailbox ([BudDiv@dot.gov](mailto:BudDiv@dot.gov)) no later than the September 1st prior to the fiscal year in which the State wishes to opt out.
- The funds remain as TAP funds.
- The State cannot use a portion of its TAP funds for the fiscal year in which it opts out for RTP administrative costs.

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## Transportation Alternative Program (TAP) Questions & Answers

### TAP: General Information

#### Funding and Financial Management

##### 1. How are Transportation Alternative Program (TAP) funds allocated and administered?

Fifty percent of a State's TAP apportionment (after deducting the set-aside for the Recreational Trails Program, if applicable) is suballocated to areas based on their relative share of the total State population with the remaining 50 percent available for use in any area of the State. The suballocation is made in the same manner as for STP funds. (23 U.S.C. 213(c), MAP-21 1122) [See the Q&As regarding [Suballocation of Apportioned Funds](#) for additional detail.]

##### 2. Can you transfer funds from other programs into Transportation Alternative Program (TAP)?

Yes. Funds from the NHPP, STP, CMAQ, and HSIP may be transferred to the TAP. (MAP-21 1509). Note that projects eligible under TAP are broadly eligible for STP funds and STP funds could be used for TAP projects without making a transfer. (23 U.S.C. 133(b)(11)).

##### 3. What is the Federal share for Transportation Alternative Program (TAP) projects, in general, and for the Recreational Trails Program (RTP) and Safe Routes to School Program (SRTS) in particular?

The Federal share for TAP projects is as follows:

- For most TAP projects, including the SRTS, the Federal share is the same as for the general Federal-aid highway program: 80 percent Federal/20 percent State or local match with a sliding

scale. (23 U.S.C. 120).

- Projects funded under the RTP set-aside retain the Federal share and flexible match provisions under current law (23 U.S.C. 206(f)). Recreational trails projects funded from other TAP funds use the general match described above.

#### 4. **Are States required to distribute funds among Metropolitan Planning Organizations (MPOs) with urbanized area populations less than 200,000?**

No. MAP-21 does not require suballocation to MPOs with populations less than 200,000. TAP funds suballocated to areas with a population between 5,001 to 200,000 may be used anywhere in those areas, including within the metropolitan planning area boundaries of an MPO serving an urbanized area with a population less than or equal to 200,000.

#### 5. **Can funds be transferred to the Federal Transit Administration (FTA) for Transportation Alternative Program (TAP)-eligible projects?**

Yes. Funds may be transferred in the same manner as other Federal-aid highway program procedures. (23 USC 104(f)).

### **Eligible Projects**

#### 1. **What activities are eligible under Transportation Alternative Program (TAP)?**

Eligible activities (23 U.S.C. 213(b) (MAP-21 1122); 23 USC 101(a)(29) (MAP-21 1103) under the TAP program include:

- A. Construction, planning, and design of on-road and off-road trail facilities for pedestrians, bicyclists, and other nonmotorized forms of transportation, including sidewalks, bicycle infrastructure, pedestrian and bicycle signals, traffic calming techniques, lighting and other safety-related infrastructure, and transportation projects to achieve compliance with the Americans with Disabilities Act of 1990.
- B. Construction, planning, and design of infrastructure-related projects and systems that will provide safe routes for non-drivers, including children, older adults, and individuals with disabilities to access daily needs.
- C. Conversion and use of abandoned railroad corridors for trails for pedestrians, bicyclists, or other nonmotorized transportation users.
- D. Construction of turnouts, overlooks, and viewing areas.
- E. Community improvement activities, including-
  - inventory, control, or removal of outdoor advertising;
  - historic preservation and rehabilitation of historic transportation facilities;
  - vegetation management practices in transportation rights-of-way to improve roadway safety, prevent against invasive species, and provide erosion control; and
  - archaeological activities relating to impacts from implementation of a transportation project eligible under this title.
- F. Any environmental mitigation activity, including pollution prevention and pollution abatement activities and mitigation to-
  - address stormwater management, control, and water pollution prevention or abatement related to highway construction or due to highway runoff, including activities described in 23 U.S.C. 133(b)(11), 328(a), and 329; or
  - reduce vehicle-caused wildlife mortality or to restore and maintain connectivity among terrestrial or aquatic habitats.

- G. The recreational trails program (RT) under 23 U.S.C. 206.
- H. The safe routes to school program (SRTS) under section 1404 of SAFETEA-LU, including-
  - Infrastructure-related projects.-planning, design,and construction of infrastructure-related projects on any public road or any bicycle or pedestrian pathway or trail in the vicinity of schools that will substantially improve the ability of students to walk and bicycle to school, including sidewalk improvements, traffic calming and speed reduction improvements, pedestrian and bicycle crossing improvements, on-street bicycle facilities,off-street bicycle and pedestrian facilities, secure bicycle parking facilities, and traffic diversion improvements in the vicinity of schools.
  - Noninfrastructure-related activities to encourage walking and bicycling to school, including public awareness campaigns and outreach to press and community leaders, traffic education and enforcement in the vicinity of schools, student sessions on bicycle and pedestrian safety, health, and environment, and funding for training, volunteers, and managers of safe routes to school programs.
  - Safe Routes to School coordinator.
- I. Planning, designing, or constructing boulevards and other roadways largely in the right-of-way of former Interstate System routes or other divided highways.

**2. Can Transportation Alternative Program (TAP) funds be used for landscaping and scenic enhancement as an independent project?**

No. TAP funds cannot be used for landscaping and scenic enhancement as independent projects. However, landscaping and scenic enhancement are eligible as part of the construction of any Federal-aid highway project under 23 U.S.C. 319, including TAP-funded projects.

**3. Does "vegetation management" under the definition of transportation alternative include routine maintenance?**

No. Routine maintenance is not eligible as a TAP activity except under the RTP.

**4. Can administrative costs be paid to an Metropolitan Planning Organization (MPO) with Transportation Alternative Program (TAP) funds?**

No. There are no provisions under TAP permitting the payment of MPO administrative costs.

**5. What types of scenic byway projects are eligible under MAP-21?**

Eligible projects under the STP and TAP that may have previously been eligible as part of the National Scenic Byways Program include the construction of turnouts, overlooks, and viewing areas; historic preservation and rehabilitation of historic transportation facilities related to a byway; and bicycle and pedestrian facilities along a byway. (23 U.S.C. 101(a)(29), 23 USC 213(b), MAP-21 1101, 1122).

## **Eligible Project Sponsors**

**1. Are State DOTs and Metropolitan Planning Organizations (MPOs) eligible entities to access Transportation Alternative Program (TAP) funds?**

No. State DOTs and MPOs are not eligible entities as defined under 213(c)(4)(B) and therefore are not eligible for TAP funds. However, State DOTs and MPOs may partner with an eligible entity project sponsor to carry out a project.

**2. What entities can submit projects for Transportation Alternative Program (TAP) funding?**



TAP funds can only be obligated for projects submitted by "eligible entities" defined in 213(c)(4)(B) as follows:

- local governments;
- regional transportation authorities;
- transit agencies;
- natural resource or public land agencies;
- school districts, local education agencies, or schools;
- tribal governments; and
- any other local or regional governmental entity with responsibility for or oversight of transportation or recreational trails (other than a metropolitan planning organization or a State agency) that the State determines to be eligible, consistent with the goals of this subsection.

**3. Are nonprofits eligible to receive Transportation Alternative Program (TAP) funds?**

No, nonprofits are not eligible as direct grant recipients of the funds. Nonprofits are eligible to partner with any eligible entity on an eligible TAP project, if State or local requirements allow.

**4. Are other State agencies eligible to access Transportation Alternative Program (TAP) funds?**

Yes. State natural resource and public land agencies are eligible. (23 U.S.C. 213(c)(4)(B)).

**5. Are Federal agencies eligible to access Transportation Alternative Program (TAP) funds?**

Yes. Federal natural resource and public land agencies are eligible. (23 U.S.C. 213(c)(4)(B)).

**6. Does the Recreational Trails Program (RTP) retain its own eligible project sponsor provisions?**

For RTP set-aside funds, the eligible project sponsor provisions under 23 U.S.C. 206 are retained. (23 U.S.C. 213(f)(3)).

## **Competitive Process for Project Selection**

**1. Are there Federal requirements or minimum standards on how to set up competitive processes described under 23 U.S.C. 213(c)?**

No. TAP does not establish specific standards or procedures for the competitive process. The USDOT plans to develop best practices for consideration. DOT will publish a model Request for Proposal or Notice of Funds Available that States and MPOs may use at their discretion.

**2. Does a competitive process have to consider all eligible activities equally?**

No. There is no specific requirement to consider all eligible activities equally.

**3. Can Transportation Management Areas (TMAs) return their money to the State to have the State run a competitive process on their behalf?**

Yes. A TMA may allow the State to run the TMA's competitive process. However, the State cannot require the TMA to turn over the TMA's selection process.

**4. How are the projects chosen under Transportation Alternative Program (TAP)?**

All TAP funds must be obligated to eligible projects submitted by eligible entities through a competitive

process. For the suballocated funds in the urban areas with populations 5,001 to 200,000, and the areas with populations 5,000 and below, the State DOT selects the projects. For suballocated funds in urbanized areas over 200,000 population, the MPO serving the TMA selects the projects in consultation with the State. (23 U.S.C. 213(c)).

## **TAP: Recreational Trails Program (RTP)**

### **1. How does the Recreational Trails Program (RTP) change under MAP-21?**

MAP-21 makes RTP funding a set-aside from the TAP. Unless the Governor opts out in advance, an amount equal to the State's FY 2009 RTP apportionment is to be set aside from the State's TAP funds for recreational trails projects. RTP requirements under 23 U.S.C. 206 continue to apply to RTP set-aside funds. (23 U.S.C. 213(f)-(g)).

### **2. Are there new Recreational Trails Program (RTP) requirements that apply to the RTP set-aside funds?**

Yes. Under 23 U.S.C. 213(f)(2), each State shall "return 1 percent of those funds to the Secretary for the administration of that program." This is comparable to the requirement under SAFETEA-LU for the FHWA to take funds off the top of the RTP funding for this purpose before apportioning the funds to the States.

Each State shall "comply with the provisions of the administration of the recreational trails program, including the use of apportioned funds." (23 U.S.C. 213(f)(3)). Therefore, RTP requirements under 23 U.S.C. continue to apply to RTP set-aside funds. (23 U.S.C. 206).

"A State may opt out of the recreational trails program [set-aside] if the Governor of the State notifies the Secretary not later than 30 days prior to apportionments being made for any fiscal year." (23 U.S.C. 213(g)).

### **3. Did MAP-21 change what agency manages the Recreational Trails Program (RTP) set-aside?**

No. The statute requires the State Governor to designate the State agency or agencies to administer the RTP. (23 U.S.C. 206(c)).

### **4. Do the provisions in 23 USC 206, which governed Recreational Trails Program (RTP) before MAP-21, still apply?**

Yes. While RTP funds will be a set-aside of TAP funds, MAP-21 provides that States must comply with the provisions of section 206 when using the MAP-21 set-aside funds. (23 U.S.C. 213(f)(3)). This includes following the provisions in section 206(d) relating to the use of funds. It also allows use of the Federal share provisions in section 206(f) and project administration provisions in section 206(h).

### **5. Is the State Recreational Trail Advisory Committee still required?**

Yes. For a State to be eligible to use funds set aside for the RTP under 23 U.S.C.213(f), the State must comply with the requirements of section 206 of title 23 U.S.C., including the requirement under 23 U.S.C. 206(c)(2) that "...the State shall establish a State recreational trail advisory committee that represents both motorized and nonmotorized recreational trail users, which shall meet not less often than once per fiscal year." If a State does not meet this requirement, it is not eligible to use RTP set-aside funds.

### **6. What is the Recreational Trails Program (RTP) Opt-Out Provision?**

The MAP-21 allows the Governor of the State to opt out of the set-aside for the RTP on an annual basis. (23 U.S.C. 213(g)). Instructions on how to opt out of the program for FY 2013 were included in a Notice to the States. See the following webpage: [www.fhwa.dot.gov/legsregs/directives/notices/n4510755.htm](http://www.fhwa.dot.gov/legsregs/directives/notices/n4510755.htm) for additional information.

**7. If a State opts out of the Recreational Trails Program (RTP), can it still fund recreational trail projects with TAP funds?**

Yes. Recreational trail projects are eligible for TAP funds, but the RTP provisions and requirements under 23 U.S.C. 206 would not apply. (23 U.S.C. 213(c)(4)(b)). Recreational trails projects funded with TAP funds other than the RTP set-aside are subject to the requirements in 23 U.S.C. 213. The "treatment of projects" provision under 23 U.S.C. 213(e) would apply. This means that projects would have to be treated as projects on Federal-aid highways.

**8. What happens to the funding if a State opts out of the Recreational Trails Program (RTP)?**

The funds remain part of the TAP.

**9. If a State opts out of the Recreational Trails Program (RTP), will it still have access for administrative funds to administer projects from previous years?**

No. The ability to use RTP funds for State administrative costs is limited to a percentage "of the apportionment made to the State for the fiscal year" (which would include the RTP set-aside funds). (23 U.S.C. 206(d)(2)(H)). If there is no program to administer, then the administrative funds cannot be permitted.

**10. Are recreational trails projects eligible under other Federal-aid programs?**

Yes. Recreational trail projects that would be eligible under the RTP will be broadly eligible under STP and TAP. (23 U.S.C. 213(b)(2), 23 U.S.C. 133(b)(20)). TAP provisions and requirements under section 213 would apply to recreational trail projects using TAP funds (other than RTP set-aside funds). STP provisions and requirements apply to STP funds used for recreational trails projects.

**11. Does the transferability provision apply to the Recreational Trails Program (RTP)? Can a State continue its RTP to retain the RTP structure, but then transfer funds from the RTP to TAP?**

No. MAP-21 does not have a transferability provision for the RTP set-aside. Some projects may be eligible both under the RTP and TAP, and a State can choose whether to obligate RTP or TAP funds for such projects. Also, States have broad discretion to use STP funds for projects eligible under TAP or RTP. Note that if a State opts out of the RTP, such funds remain TAP funds, and the transferability provisions pertaining to TAP would apply.

## **TAP: Safe Routes to School (SRTS)**

**1. Are Safe Routes to School Program (SRTS) coordinators required as under SAFETEA-LU Section 1404(f)(3)?**

No. SRTS coordinators are not required under MAP-21 but are eligible for funding under TAP.

**2. Does the requirement from SAFETEA-LU Section 1404(f)(1)(B) that States allocate "not less than 10 percent and not more than 30 percent..." of Safe Routes to School Program (SRTS) funds for non-infrastructure activities still apply?**

No. This split between infrastructure and non-infrastructure projects does not exist in MAP-21. It does apply to remaining SRTS funds from SAFETEA-LU.

**3. What happens to the Safe Routes to School Program (SRTS) funds provided by SAFETEA-LU?**

Funds provided under SAFETEA-LU for the SRTS program, will continue to be available for their specified period of availability under the same terms and conditions in effect prior to the effective date of MAP-21. See [FHWA's Safe Routes to School Guidance dated March 2006](#).

**4. Is Bicycle and Pedestrian Safety Education eligible under the Safe Routes to School Program (SRTS) component of MAP-21?**

Yes. Bicycle and pedestrian safety education for Kindergarten through 8th grade continues to be an eligible SRTS activity.

**5. Is travel for Safe Routes to School Program (SRTS) project-specific site visits or to conferences an eligible activity?**

Yes. Travel directly related to a specific project is eligible under SAFETEA-LU Section 1404(f)(2)(A). Travel related to "training, volunteers, and managers of safe routes to school programs" is eligible as a non-infrastructure-related activity.

**6. Is a local Safe Routes to School Program (SRTS) coordinator position an eligible expense?**

Yes, this eligibility is maintained in MAP-21. SAFETEA-LU Section 1404(f)(2)(A) lists "managers of safe routes to school programs" as eligible under the non-infrastructure projects.

## **TAP: Transportation Enhancement (TE)**

**1. What Transportation Enhancement (TE) activities formerly eligible under SAFETEA-LU are not eligible for TAP under MAP-21?**

MAP-21 eliminated eligibility for TE for the following activities:

- Safety and educational activities for pedestrians and bicycles, however, activities targeting children are eligible as SRTS projects under the TAP funding.
- Acquisition of scenic easements and scenic or historic sites.
- Scenic or historic highway programs (including visitor and welcome centers).
- Historic preservation as an independent activity unrelated to historic transportation facilities. Historic preservation and rehabilitation of historic transportation facilities are permitted as one type of community improvement activity; see Section 101(a)(29)(E).
- Operation of historic transportation facilities.
- Archaeological planning and research undertaken for proactive planning. This category now must be used only as mitigation for highway projects.
- Transportation museums.

**2. Do the MAP-21 eligibility changes apply to unobligated Transportation Enhancement (TE) funds or to TE projects that already have been obligated?**

No. TE funds apportioned in prior years will continue to be available for their specified period of availability under the same terms and conditions in effect prior to the effective date of MAP-21.

## **TAP: Youth Service and Conservation Corps, MAP-21 Section 1524**

### **1. What is the purpose of the Youth Service and Conservation Corps provision?**

The concept for using youth corps in Federal-aid highway program projects originated from:

- " TEA-21 §1108(g) relating to Transportation Enhancement (TE) projects.
- " TEA-21 §1112(e) and SAFETEA-LU §1109(f) relating to RTP projects.

Youth corps organizations have benefited under the RTP, which is usually administered through a State resource agency that may have ongoing relationships with youth corps organizations. Most RTP projects are not within highway rights-of-way and follow "Common Rule" procedures rather than highway program procedures.

However, few youth corps organizations have been able to participate under TE because of Federal highway program requirements.

### **2. What are *Qualified Youth Service and Conservation Corps*?**

Section 1524 of MAP-21 defines "qualified youth service or conservation corps" as those that are defined at 42 USC 12572(a)(2) and 42 USC 12656(c)(3). 42 USC 12572(a)(2) refers to the "healthy futures corp," which is designed to identify and meet unmet health needs in communities. 42 USC 12656(c)(3) refers to the "urban youth corps," which means any program established by a State or local government or by a nonprofit organization that--

- A. is capable of offering meaningful, full-time, productive work for individuals between the ages of 16 and 25, inclusive, in an urban or public works or transportation setting;
- B. gives participants a mix of work experience, basic and life skills, education, training, and support services; and
- C. provides participants with the opportunity to develop citizenship values and skills through service to their communities and the United States.

### **3. How do we find qualified youth service and conservation corps?**

Youth service and conservation corps exist in 44 States and the District of Columbia. There are also national organizations that qualify as youth service and conservation corps.

### **4. What kinds of projects are eligible under the provisions of Section 1524?**

MAP-21 Section 1524 requires the USDOT/FHWA to "...encourage the States and regional transportation planning agencies to enter into contracts and cooperative agreements with qualified youth service or conservation corps ... to perform appropriate projects eligible under sections 162, 206, 213, and 217 of title 23, United States Code, and under section 1404 of the SAFETEA-LU (119 Stat. 1228)." These programs are the National Scenic Byways Program (23 U.S.C. 162), Recreational Trails Program (23 U.S.C. 206), Transportation Alternatives Program (23 U.S.C. 213), Bicycle Transportation and Pedestrian Walkways (23 U.S.C. 217), and the Safe Routes to School Program (Section 1404 of SAFETEA-LU).

### **5. What do the Section 1524 Requirements mean?**

Section 1524(b)(1) requires the Secretary to set the pay rate and refers to a method used to establish a living allowance or rate of pay for youth service and conservation corps. This language avoids conflicts with prevailing wage rate requirements. The USDOT/FHWA may use a rate already established by

another Federal agency.

Section 1524(b)(2) exempts contracts and cooperative agreements with youth service and conservation corps from Federal-aid highway program contracting requirements under 23 U.S.C. 112. In effect, a State or regional transportation planning agency may sole-source contracts and cooperative agreements to qualified youth service and conservation corps for working undertaken for byway, recreational trail, transportation alternative, bicycle and pedestrian, or SRTS projects.

**6. Does Section 1524 supersede the requirement of 23 U.S.C. 213(e) relating to Treatment of Projects?**

Yes. There are differences between MAP-21 Section 1524 and the newly established 23 U.S.C. 213(e) under TAP regarding compliance with Federal-aid highway requirements. MAP-21 Section 1524 provides exceptions to certain requirements regarding pay rates and contracting requirements for projects using contracts and cooperative agreements with qualified youth service or conservation corps for certain projects.