

# Transportation Alternatives Set-Aside Program

Bipartisan Infrastructure Law (BIL)  
Federal Highway Administration



Informational Booklet  
2022 Application Cycle

## **I. INTRODUCTION**

Transportation Alternatives projects are eligible for funding under the Surface Transportation Block Grant (STBG). Effective October 1, 2021, the Bipartisan Infrastructure Law (BIL) continues the Transportation Alternatives set-aside from the Surface Transportation Block Grant (STBG) program. Eligible uses of the set-aside funds include all projects and activities that were previously eligible under the Transportation Alternatives Program under the Moving Ahead for Progress in the 21st Century Act (MAP-21). This encompasses a variety of smaller-scale transportation projects such as pedestrian and bicycle facilities, recreational trails, safe routes to school projects, community improvements such as historic preservation and vegetation management, and environmental mitigation related to stormwater and habitat connectivity. (BIL § 11109; 23 U.S.C. 133(h))

The Mississippi Transportation Commission (MTC) invites any Eligible Project Entities as defined herein to apply for funding approval of a Transportation Alternatives (TA) project. Transportation Alternatives (TA) projects utilize Federal funds that contribute up to 80% of the total eligible project cost.

There are many Federal and State regulations and project implementation procedures that will be required if a project is approved. The Mississippi Department of Transportation (MDOT) will work with all successful applicants to ensure that all requirements are met, and projects are completed.

This document is a guide and is intended to provide interested parties with the TA guidelines and necessary procedures to follow in preparing an application for TA Federal funds.

This document provides information regarding:

- Federal and State Guidelines for Eligibility of TA projects
- Federal and State Guidelines for Funding of TA projects
- Application Procedures and Forms for Proposed TA Projects
- MDOT TA Project Selection Process

## II. FEDERAL AND STATE GUIDELINES FOR ELIGIBILITY OF TRANSPORTATION ALTERNATIVES PROJECTS

Projects funded under 23 U.S.C. 133, including projects carried out under the TA Set-Aside under 23 U.S.C. 133(h), but excluding RTP projects carried out under 23 U.S.C.133(h)(5), shall be treated as projects on a Federal-aid highway (23 U.S.C. 133(i)). This subjects all STBG projects (excluding those funded from the RTP set-aside) to, among other things, Davis-Bacon Act prevailing wage requirements and other Federal-aid requirements applicable to projects on Federal-aid highways (e.g., Buy America, planning, environmental review, letting, etc.).

Note that the BIL amended 23 U.S.C. 206 to add subsection (j), which states:

*(j) USE OF OTHER APPORTIONED FUNDS. —Funds apportioned to a State under section 104(b) that are obligated for a recreational trail or a related project shall be administered as if the funds were made available to carry out this section.*

This means that TA Set-Aside and STBG funds that are obligated for RTP projects are to be administered as if they were made available to carry out 23 U.S.C. 206. Therefore, the treatment of projects provision in 23 U.S.C. 133(i) would not apply to such projects.

Transportation Alternatives projects are restricted to Federal, State and MTC rules and guidelines. The additional rules required by the MTC are designed to comply with limitations imposed by Mississippi law. All projects carried out using TA 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. Because the MDOT is responsible for these projects, the MTC has adopted certain eligibility and participation rules as detailed in the remainder of this document.

### A. Eligible Project Entities:

Under 23 U.S.C. 133(h)(4)(A), the eligible entities to receive TA funds are:

1. A local government;
2. A regional transportation authority;

3. A transit agency;
4. A natural resource or public land agency;
5. A school districts, local education agency, or school;
6. A Tribal government;
7. A metropolitan planning organization that serves an urbanized area with a population of 200,000 or fewer;
8. A nonprofit entity;
9. Any other local or regional governmental entity with responsibility for oversight of transportation or recreational trails (other than a metropolitan planning organization that serves an urbanized area with a population of over 200,000 or a State agency) that the State determines to be eligible, consistent with the goals of 23 U.S.C. 133(h); and
10. A State, at the request of an eligible entity listed above.

#### **B. Eligible Projects:**

The BIL retained previous TA Set-Aside eligibility, amended the reference for SRTS projects, and added activities in furtherance of a vulnerable road user safety assessment, as defined in 23 U.S.C. 148(a). See 23 U.S.C. 133(h)(3). The BIL also added eligibility for State DOTs to use funds for administrative and technical assistance, limited to 5 percent of the TA Set-Aside fund (after the RTP set-aside). 23 U.S.C. 133(h)(6)(C). TA Set-Aside eligible projects consist of:

**Section 133(h)(3)(A):** Projects or Activities described in 23 U.S.C. 101(a)(29) or 23 U.S.C. 213 as in effect prior to the enactment of the FAST Act. Those sections contained the following eligible projects:

(1) Transportation Alternatives as defined in 23 U.S.C. 101(a)(29) as it appeared prior to changes made by the FAST Act: The term “transportation alternatives” means any of the following activities when carried out as part of any program or project authorized or funded under title 23 U.S.C., or as an independent program or project related to surface transportation:

(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 (42 U.S.C. 12101 et seq.).

- (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 (see State DOTs Leveraging Alternative Uses of the Highway Right-of-Way Guidance); and
  - (iv) archaeological activities relating to impacts from implementation of a transportation project eligible under title 23, U.S.C.
- (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; or
  - (ii) reduce vehicle-caused wildlife mortality or to restore and maintain connectivity among terrestrial or aquatic habitats.

(2) The recreational trails program under 23 U.S.C. 206 of title 23. (See the Recreational Trails Program section. Any project eligible under the RTP also is eligible under the TA Set Aside.)

(3) The safe routes to school program under section 1404 of the SAFETEA-LU (23 U.S.C. 402 note; Public Law 109-59) [now codified as 23 U.S.C. 208 and including]:

- Infrastructure-related projects eligible under section 1404(f)(1) [now eligible under 23 U.S.C. 208(g)(1)].
- Noninfrastructure-related activities eligible under section 1404(f)(2) [(now eligible under 23 U.S.C. 208(g)(2)].
- SRTS coordinators eligible under section 1404(f)(3) [now eligible under 23 U.S.C. 208(g)(3)].

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

- See Boulevards from Divided Highways for examples.

**Section 133(h)(3)(B):** projects and activities under the safe routes to school program under 23 U.S.C. 208.

**Section 133(h)(3)(C):** activities in furtherance of a vulnerable road user safety assessment (as defined in 23 U.S.C. 148(a)).

**Section 133(h)(6)(C):** Improving Accessibility and Efficiency. See State Technical Assistance description under the Allocations and Suballocations.

### **C. MDOT Audit Requirements for LPAs that Must Submit Audit Reports for Risk Assessment Review:**

The MDOT is regarded as the pass-through entity of the federal funds that are received by the LPA. The LPA is recognized to be a sub-recipient of the federal funds. As the pass-through entity, the MDOT has the responsibility to oversee and monitor its sub-recipients in accordance with the Office of Management and Budget's (OMB) circular "Uniform Administrative Requirements, Cost Principles and Audit Requirements" codified under 2 C.F.R. Part 200.

2 CFR Section 200.205 requires federal awarding agencies to "design and execute a merit review process for applications, with the objective of selecting recipients most likely to be successful in delivering results based on the program objectives".

As part of the adopted merit review process, MDOT performs a pre-award risk assessment that may consider the following items:

- Financial Stability
- Quality of management systems
- History of performance
- Results of audit reports or financial information

The requirement for the type of audit report or financial information will vary based on the size and complexity of the entities. MDOT will require the most recent fiscal year's audit report or financial information for review. For the purposes of determining what the most recent reporting is, MDOT will consider all of the following reports "due" nine months after the end of the entity's fiscal year. The type of audit report or financial information applicable to the entities are determined as follows:

Single Audit Report – 2 CFR Section 200.501 requires entities who expend \$750,000 or more of federal funding during their most recent fiscal year to have a single audit performed and accepted by the Federal Audit Clearinghouse (FAC) within 30 days of receipt of the audit report or 9 months after the end of the fiscal year, whichever is earlier.

1. Full Scope GAAP Audit – Entities with total revenues or expenditures, whichever is greater, equal to or greater than \$10,000,000 will be required to have a full scope GAAP audit performed in accordance with GASB #34. The report is optional for all other entities.
2. Full Scope OCBOA Audit – Entities with total revenues or expenditures, whichever is greater, equal to or greater than \$1,000,000 but less than \$10,000,000 will be required to have a full scope OCBOA audit performed in accordance with GASB #34.
3. Compilation – Entities with total revenues or expenditures, whichever is greater, less than \$1,000,000 will be required to have a compilation performed in accordance with GASB #34.
4. Financial Statements – Entities with total revenues or expenditures, whichever is greater, less than \$100,000 may submit the following items in lieu of an audit or compilation report.
  - a. Municipalities must request exemption from the Office of the State Auditor. The exemption request must be postmarked within 90 days of the end of the fiscal year and indicate that the municipality had less than \$100,000 in revenues or expenditures for the fiscal year under review. The exemption form can be found on the OSA website in the “Resources” section for local governments.
  - b. A full set of financial statements for the most recent fiscal year ended must be submitted
5. Not-For-Profits – Non-profit entities should follow the same requirements as above.

All entities, regardless of meeting the single audit reporting requirement, must complete the [Audit Determination Form](#), indicating the type of reporting they qualify for, their ability to properly administer federal funds and that they are exempt from single audit reporting.

### **Single Audit Certification**

2 CFR Section 200.332 requires the MDOT, as the pass-through entity, to monitor sub-recipient activities. To meet this requirement, LPA’s must designate an

individual to register with an MDOT e-forms system account. The LPA designee will be notified to complete and submit a Single Audit Certification and Exemption Form by June 30 of each year.

Completion of this form will be required each fiscal year in which the LPA is a sub-recipient of FHWA awarded funds, beginning with project activation and until project close-out.

**D. Ineligible Applicants:** If any of the following conditions exist at the submission deadline, the LPA's application will not be considered:

- Non-Compliance with the **Office of the State Auditor**
- Non-Compliance with the **MDOT LPA Division**
- Audit Suspension with the **MDOT Audit Division**
- Any nonprofits not eligible as direct grant recipients of the funds. Non-eligible nonprofits are eligible to partner with any eligible entity on an eligible TA project, if State or local requirements permit.
- LPA's currently working on an un-obligated TA project from previous TA awards.

**E. Ineligible Activities:**

TA Set-Aside funds cannot be used for the following activities:

- MPO administrative purposes. Exceptions: o See FHWA's Memo Allocating Indirect Costs to Projects, dated September 4, 2015.
- Promotional activities, except as permitted under the SRTS (2 CFR 200.421(e)(3)).
- Routine maintenance and operations, except trail maintenance and restoration as permitted under the RTP.
- General recreation and park facilities, playground equipment, sports fields, campgrounds, picnic areas, pavilions, or other facilities that do not serve an eligible TA Set-Aside, RTP, or SRTS purpose.

**Additional guidelines for all eligible activities may be found at:**

[Transportation Alternative Final Guidance](#)



**F. Complete (or Stand-alone) Project Requirement:** The MDOT will only approve applications that represent a complete finished project within the initial construction of that project. “Stage” construction or “Phase” I or II, etc....will not be accepted. The applicant’s proposed project must be a stand-alone and completely finished product upon expenditure of the requested funds plus the applicant’s matching funds. Example:

- **a bicycle path that proposes to build a section of the total route with the current application and then complete the total path in a later project will not be approved. A logical termini must be chosen for the project.**

Projects also shall not be contingent upon potential funding for completion but be able to be completed within committed funds. The 20% matching funds for the proposed project must be identified and accessible to the LPA at the time of application submission.

### **III.FEDERAL AND STATE GUIDELINES FOR FUNDING OF TRANSPORTATION ALTERNATIVES PROJECTS**

All Federal Highway Funds are reimbursable funds. The applicant is reimbursed 80% of the total project cost up to the Federal fund award amount. The applicant is responsible for at least 20% of the total project cost.

Cities with a population of 10,000 or less as per the latest census count will be eligible for reimbursement of preliminary engineering costs (up to 8% of the Construction Estimate submitted at the time of application). Additionally, if a non-municipality does not meet the requirements above or below regarding census eligibility, consideration will be given to determine an LPA’s eligibility for preliminary engineering reimbursement.

The preliminary engineering costs will be reimbursed at a maximum amount of 80% federal and 20% local. The federal reimbursement share will ultimately be determined by the project meeting the project milestones that will be set once the PE contract is concurred in by MDOT and the project schedule is finalized. There will not be any reimbursement for accrued costs to the LPA until the project is authorized at FHWA for construction. Only then will the LPA be reimbursed based on the below conditions.

The Memorandum of Agreement (MOA) between the LPA and MDOT will have a deadline to reach the construction phase based on the estimated delivery date of the

**approved** Plans, Specifications and Estimate (PS&E) being submitted to the MDOT LPA Division. If the deadline date in the MOA is not met, then the participating percentage will be reduced from the maximum amount of 80% federal and 20% local to 70% federal and 30% local. Each 6-month interval the project deadline is missed will result in further reductions in participating preliminary engineering costs. At the discretion of the Transportation Commissioner and based on the recommendation of the State LPA Engineer, there is an opportunity for one 6-month extension that will not affect the federal participating percentage, but that will only be determined on a case-by-case basis of the project moving forward efficiently and monthly progress reports being submitted consistently.

Cities with an estimated census of over 10,000 population will not have participation of federal reimbursement or special match credit for preliminary engineering activities. The construction participation amount will begin with a maximum of 80% federal and 20% local.

The deadline date listed in the Memorandum of Agreement (MOA) will be determined based on the estimated delivery date of the **approved** Plans, Specifications and Estimate (PS&E) being submitted to the MDOT LPA Division. If the deadline date in the MOA is not met, then the participating percentage for construction could be reduced from the maximum amount of 80% federal and 20% local to 70% federal and 30% local. Each 6-month interval the project deadline is missed will result in further reductions in participating preliminary engineering costs.

At the discretion of the Transportation Commissioner and based on the recommendation of the State LPA Engineer, there is an opportunity for one 6-month extension that will not affect the federal participating percentage, but that will only be determined on a case-by-case basis of the project moving forward efficiently and monthly progress reports being submitted consistently.

#### **IV. APPLICATION PROCEDURES AND FORMS FOR PROPOSED TRANSPORTATION ALTERNATIVES PROJECTS**

The LPA Division has developed an online application process for submitting applications. The link to this application can be found on our MDOT Webpage. This online application has been updated to include the ability to save work on the application so not to lose any entered data. However, all attachments that are included with the application will not be saved until the application is submitted.

In addition to the online submittal, the LPA Division will require **three** printed copies of the completed application and supporting documents. These need to be submitted to the LPA Division no later than two weeks after the close of the application cycle. These can be mailed or delivered to the below address:

**Mississippi Department of Transportation  
Attn: Paula H. Morgan, LPA Division (77-01)  
P.O. Box 1850  
Jackson, MS 39215-1850**

Eligible applicants must complete all required elements of the project application and follow approval procedures as described in this document. Failure to provide a complete application may result in the application not being considered for funding.

As part of the application process, the applicant is required to list all prior awards for TA projects received that are still open but where the LPA has not been given the authority to advertise the project. If the applicant has any projects that have not reached that stage, they are not eligible for consideration and should not complete an application at this time.

Each Eligible Project Entity will be allowed to submit more than one application. However, because of possible funding limitations, each entity should **prioritize each application upon submittal**.

**The applicant must complete the online TA Project Application and submit the completed application, including a one-page summary and supporting documents, as required. The required attachments are listed below.**

**APPLICATION FORM: [CLICK HERE](#)**

**REQUIRED APPLICATION ATTACHMENTS:**

- **Description of Proposed Project:**  
Provide an overview of the proposed project that tells what is to be done.  
Describe any/all connectivity to any local transportation system or facility that will result in the completion of the proposed project.

- **Benefits of Proposed Project:**  
List and describe the benefits and objectives of the proposed project. The degree and type of public support for the project should be discussed, as well as the projected demand for the facility
- **Maps, Plans, and Photographs:**  
Describe the project location and clearly show the project limits and area of major work using local or county maps. Identify all Right-of-Way. Include photographs of existing facility and drawings of proposed project. Include a site plan of proposed construction or illustrations of proposed work. For bicycle/pedestrian projects include typical cross-sections.
- **Evidence of Eligibility by Project Category:**  
Illustrate evidence of eligibility by addressing the specific eligibility requirements for the project activity. The intent of this attachment is to demonstrate that the project clearly qualifies for Transportation Alternatives Program funds.
- **Listing of ALL Transportation Alternative (TA) Projects Awarded:**  
The applicant must provide a listing of all TA awarded projects received by the LPA. This applies to TA funds awarded by the Mississippi Transportation Commission along with any TA funds awarded by a Metropolitan Planning Organization. Please include the award date, award amount and termini of project.

**NOTE: If the LPA has a TA project that was awarded, is an open project and has yet to be given the authority to advertise the project, the LPA will not be considered eligible for award of a new project during this application cycle.**

- **Environmental Review:**  
The applicant must accurately identify all potential environmental problems that might occur because of the proposed TA project and demonstrate that a reasonable strategy has been considered to address any environmental consequences of the TA project. The applicant must also demonstrate a willingness to comply with all environmental requirements. The MDOT will evaluate the information provided by the applicant to determine the likelihood

that the project will be able to comply with the environmental requirements and if the proposed project is environmentally practical.

- **Right of Way (ROW), Utilities & Easements:**  
Discuss any anticipated need for additional ROW, easement acquisition (construction or permanent), and/or utility work. Attach a detailed plan of action of how these needs are to be addressed and make sure this work is covered in the proposed project budget.
- **Budget and Implementation Schedule:**  
Attach a complete budget and work schedule that shows total cost breakdown information and a project schedule that shows activities from kickoff to the bidding of the project for construction. All cost estimates must meet current design standards for the type of improvement requested. A copy of the estimate computations, together with the source of those figures should be included. Include any detailed estimates that have been prepared for the proposed work.
- **Legal and Compliance Certification:**  
Certify that no known foreseeable legal impediments exist that would prohibit completion of the project and that the project complies with applicable codes, standards and/or regulations required for completion. This certification must be executed by either the Mayor, President of the Board of Supervisors, or State Agency Head, whichever applies to the applicant. The certification must be in the form of a Board order for local governments, indicating the approval of either the Board of Alderman or Board of Supervisors.
- **Proposed Maintenance Agreements and Preservation Covenants:** Attach proposed maintenance plans, agreements, and preservation covenants. Include an estimate of the annual cost of maintenance and the source of those funds. Rails-to-Trails Districts must include an executed contract agreement with a government entity that agrees to maintain the proposed project.
- **Proof of Current LPA PDM Certification**  
Attach a copy of certificate(s) of completion of the LPA Project Development Manual (PDM) Certification class. Each LPA must have at least one full-time employee certified at the time of application. Certification is good for a period of two (2) years.

- **Audit Reporting as Applicable:**

Each applicant must provide a copy of the FY 2021 Audit report along with the completed [Audit Determination Form](#) as required. See Section C. on page(s) 5-7 to determine what requirements are needed.

## **V. MISSISSIPPI DEPARTMENT OF TRANSPORTATION PROJECT SELECTION PROCESS**

After all applications have been received and screened for general acceptability by the MDOT, they will be distributed to special program coordinators within the MDOT (and other agencies if applicable) for review and analysis. A field visit and meeting with the LPA will be scheduled so that the project concept can be reviewed more in depth. All projects passing this first stage of analysis and review will then be evaluated and prioritized according to the Project Review and Selection Factors listed below.

**Project Review and Selection Factors:** The MDOT internal review and decision-making process will be guided by the following priority factors, in no particular order. Projects that address multiple priority factors may rank higher when reviewed.

- Projects that improve safety and transportation through new construction or improvements to existing facilities, designed for pedestrians and bicyclists and provide access to destinations within a community. Additional value is given to projects that demonstrate increases in economic, environmental, health and recreational benefits for that community.
  - Projects that are fully funded through the Federal TA award and the required matching funds and are not contingent upon unidentified and uncommitted funds such as bonds, additional taxes, or submitted, but unfunded grant applications.
- Projects that are complete and usable once constructed. The project may be a part of a multi-phase plan as long as the proposed phase has logical termini and is deemed safe, usable and functional.
- Projects that clearly identify efforts to enhance safety, travel and tourism efforts.
- Projects that are associated with a master plan and will advance the goals and policies contained in the community's or region's master plan. Additional consideration will be given for all LPAs that can show they have an existing

transitional plan.

- Projects that are multijurisdictional in their approach and are supported by other local governments in the vicinity of the project. This can be demonstrated by joint application of two or more government entities or endorsement by the governing board of an adjacent government entity.
- Projects that have the support of recognized public or not-for-profit organizations of national, statewide, or regional scope with expertise in the subject matter of the application.
- Projects that enable students in grades K-12 to be able to walk safely to school without walking in a roadway alongside vehicles, school buses, and other traffic.

After the application cycle has closed, a team of MDOT engineers and staff will do site visits to the applicants to review the application and proposed work in depth. Once review and prioritization is complete, the projects, along with their respective rationale, will be presented to the MTC for final project concurrence and award.

The MTC will announce the selected projects once the project review and selection process is complete and official commission approval has been given. If an application is approved by the MTC, the applicant will be notified in writing of the award amount and will receive further instructions as to how to move forward with their awarded project. If an application is not approved by the MTC, the applicant will also be notified in writing.

#### **REQUIRED ACKNOWLEDGEMENTS OF FUNDING:**

The TA award recipient is required to acknowledge the MDOT and the FHWA for their participation in the project in any news releases or other promotional material for the project.

The TA award recipient is required to notify the Public Affairs Division of the MDOT and the State LPA Engineer of any ceremonies related to the opening of the facility. The applicant is required to display a permanent plaque or sign identifying the FHWA and the MDOT as providing funding for the project.

All TA award recipients must follow the application and approval procedures as described in this document. Award recipients must also comply with all procedures as outlined in the Project Development Manual for Local Public Agencies located at <https://mdot.ms.gov> from project initiation to completion.

**LPA DIVISION & MDOT CONTACTS FOR QUESTIONS:**

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