

U.S. DEPARTMENT OF TRANSPORTATION
Federal Highway Administration
Notice of Funding Opportunity for Fiscal Years 2022 and 2023 Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) Program

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

ACTION: Notice of Funding Opportunity

SUMMARY:

The purpose of this Notice of Funding Opportunity (NOFO) is to solicit applications for FHWA’s Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) Discretionary Program Grants and will result in the distribution of up to \$848 million.

Funds made available for Federal Fiscal Years (FY) 2022 and 2023 for the PROTECT Discretionary Grant Program are to be awarded on a competitive basis to make transportation infrastructure and service more resilient to climate change and extreme weather events under 23 United States Code (U.S.C.) § 176. This notice describes the application requirements, selection and evaluation criteria, applicable program and Federal requirements, and available technical assistance during the grant solicitation period.

DATES:

Applications must be submitted electronically through [grants.gov](https://www.grants.gov) no later than 11:59 p.m., Eastern Standard Time, on Friday, August 18, 2023 (the “application deadline”). Applicants are encouraged to submit applications in advance of the application deadline; however, applications will not be evaluated, and awards will not be made, until after the application deadline.

FHWA plans to conduct outreach regarding PROTECT Discretionary Program Grants in the form of virtual meetings on May 8, 2023 and May 11, 2023, 1 PM Eastern Time. To join the Webinar, follow the instructions posted on <https://www.fhwa.dot.gov/environment/protect/discretionary>. The Webinars will be recorded and posted on FHWA's PROTECT Discretionary Grant Program Website at <https://www.fhwa.dot.gov/environment/protect/discretionary>.

ADDRESSES:

Applications must be submitted electronically through [grants.gov](https://www.grants.gov). Refer to Assistance Listing: 20.205 – Highway Planning and Construction.

FOR FURTHER INFORMATION CONTACT:

Robert Miller
Agreement Officer
Office of Acquisition and Grants Management
Federal Highway Administration
U.S. Department of Transportation
1200 New Jersey Ave., SE.
Washington, DC 20590
Email: PROTECTdiscretionary@dot.gov (preferred)
Phone: (202) 366-9167

Alternate:

Robin Hobbs
Agreement Officer/Team Leader
Office of Acquisition and Grants Management
Federal Highway Administration
U.S. Department of Transportation
1200 New Jersey Ave., SE.
Washington, DC 20590
Email: PROTECTdiscretionary@dot.gov (preferred)
Phone: (202) 366-4004

Office hours are from 7:30 a.m. to 4:00 p.m., Eastern Time, Monday through Friday, except Federal holidays.

FHWA will not review applications in advance, but FHWA staff are available for technical questions. In addition, FHWA will post answers to questions and requests for clarifications at [Grants.gov](https://www.fhwa.gov/grants) under this NOFO's page. To ensure applicants receive accurate information about eligibility or the program, the applicant is encouraged to contact FHWA directly at PROTECTdiscretionary@dot.gov, rather than through intermediaries or third parties, with questions.

SUPPLEMENTARY INFORMATION:

Each section of this notice contains information and instructions relevant to the application process for PROTECT Discretionary Grant Program grants. The applicant should read this notice in its entirety in order to submit all necessary information for complete and competitive applications.

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NOTE: FHWA uses www.grants.gov for receipt of all applications. Applicants must register and use the system to submit applications electronically. Applicants are encouraged to register in advance of the submission deadline and to register to receive notifications of updates/amendments to this Notice. Approval of user registrations for the site may take multiple weeks. It is the Applicant’s responsibility to monitor for any updates to this Notice.

SECTION A – PROGRAM DESCRIPTION

1. Overview

Section 11405 of the Bipartisan Infrastructure Law (BIL), enacted as the Infrastructure Investment and Jobs Act (Pub. L. 117-58, Nov. 15, 2021), established the PROTECT Formula and Discretionary Grant programs, which are codified at 23 U.S.C. § 176. The purpose of the PROTECT Formula and Discretionary Grant programs is to plan for and strengthen surface transportation to be more resilient to natural hazards, including climate change, sea level rise, flooding, extreme weather events, and other natural disasters through formula and competitive discretionary grants. FHWA issued guidance for the formula portion of PROTECT in July 2022. This NOFO is for the discretionary portion of PROTECT. It will result in the distribution of up to \$848 million for the PROTECT Discretionary Grant Program through a competitive discretionary grant process.¹ FHWA intends to hold future solicitations for funding available in FY 2024-2026.

The vision of the PROTECT Discretionary Grant Program is to fund projects that address the climate crisis by improving the resilience of the surface transportation system, including highways, public transportation, ports, and intercity passenger rail. Projects selected under this program should be grounded in the best available scientific understanding of climate change risks, impacts, and vulnerabilities. They should support the continued operation or rapid recovery of crucial local, regional, or national surface transportation facilities. Furthermore, selected projects should utilize innovative and collaborative approaches to risk reduction, including the use of natural infrastructure, which is explicitly eligible under the program. Also called nature-based solutions, these strategies include conservation, restoration, or construction of riparian and streambed treatments, marshes, wetlands, native vegetation, stormwater bioswales, breakwaters, reefs, dunes, parks, urban forests, and shade trees. They reduce flood risks, erosion, wave damage, and heat impacts while also creating habitat, filtering pollutants, and providing recreational benefits. Projects in the PROTECT Discretionary Grant Program have the potential to demonstrate innovation and best practices that State and local governments in other parts of the country can consider replicating.

By funding projects that improve resilience to natural hazards and climate change impacts, the PROTECT Discretionary Grant Program aims to reduce damage and disruption to the transportation system, improve the safety of the traveling public, and improve equity by addressing the needs of disadvantaged communities that are often the most vulnerable to hazards. FHWA will seek to award projects to communities that demonstrate a strong need for the funding; the program includes set asides for rural communities and Indian Tribes.

¹ Funding for the PROTECT Discretionary Grants Program comes from two sources: 1) funding authorized as contract authority from the Highway Trust Fund, and 2) funding appropriated from the General Fund in annual appropriations acts. Funding authorized from the Highway Trust Fund is reduced based on the imposition of the obligation limitation contained in the annual appropriations acts. The BIL authorized \$250 million annually from the Highway Trust Fund for FY 2022 and FY 2023. An additional \$400 million was appropriated in FY 2022 and FY 2023 as shown in detail in Section B. Currently, \$300 million is authorized annually for FYs 2024, 2025, and 2026.

For the PROTECT Discretionary Grant Program, like the PROTECT Formula Program, grant funds can only be used for activities that are primarily for the purpose of resilience or inherently resilience related.

There are four categories of funding under the PROTECT Discretionary Grant Program. One category is for Planning Grants. The other three categories are for Resilience Improvement, Community Resilience and Evacuation Routes, and At-Risk Coastal Infrastructure projects, and throughout this NOFO are collectively referred to as Resilience Grants.

Planning Grants may be used to develop Resilience Improvement Plans in accordance with 23 U.S.C § 176(e)(2) for States and MPO; resilience planning, predesign, design, or the development of data tools to simulate transportation disruption scenarios, including vulnerability assessments; technical capacity building to facilitate the ability of the eligible entity to assess the vulnerabilities of its surface transportation assets and community response strategies under current conditions and a range of potential future conditions; or evacuation planning and preparation. (23 U.S.C. § 176(d)(3)).

Resilience Improvement Grants may be used to improve the ability of an existing surface transportation asset to withstand one or more elements of a weather event or natural disaster, or to increase the resilience of surface transportation infrastructure from the impacts of changing conditions, such as sea level rise, flooding, wildfires, extreme weather events, and other natural disasters. (23 U.S.C. § 176(d)(4)(A)).

Community Resilience and Evacuation Route Grants may be used for activities that strengthen and protect evacuation routes that are essential for providing and supporting evacuations caused by emergency events including activities that will improve evacuation routes, provide safe passage during an evacuation, and reduce the risk of damage to evacuation routes as a result of future emergency events. For routes that inadequately facilitate evacuations, including the transportation of emergency responders and recovery resources, activities include expanding capacity through installation of communication and intelligent transportation system equipment and infrastructure, counterflow measures, or shoulders, in addition to constructing new or redundant evacuation routes, acquiring evacuation route or traffic incident management equipment or signage, or ensuring access or service to critical destinations, including hospitals and other medical or emergency services facilities, major employers, critical manufacturing centers, ports and intermodal facilities, utilities, and Federal facilities. (23 U.S.C. § 176(d)(4)(B)).

At-Risk Coastal Infrastructure Grants may be used for activities to strengthen, stabilize, harden, elevate, relocate or otherwise enhance the resilience of highway and non-rail infrastructure, including: bridges, roads, pedestrian walkways, and bicycle lanes, and associated infrastructure, such as culverts and tide gates to protect highways that are subject to, or face increased long-term future risks of, a weather event, a natural disaster, or changing conditions, including coastal flooding, coastal erosion, wave action, storm surge, or sea level rise, in order to improve transportation and public safety and to reduce costs by avoiding larger future maintenance or rebuilding costs. (23 U.S.C. § 176(d)(4)(C)).

Together, these four funding categories will make surface transportation assets, communities, and coastal infrastructure more resilient to current and future weather events and natural disasters, such as severe storms, flooding, drought, levee and dam failures, wildfire, rockslides, mudslides or landslides, sea level rise, extreme weather, including extreme temperature, and earthquakes, as well as to allow for continued operation or rapid recovery of surface transportation systems.

Future NOFOs under the PROTECT Discretionary Grant Program may prioritize projects that are awarded planning grants funded under this NOFO for Resilience Grant awards.

Applicants may use one application to submit the same project for multiple funding categories if the project meets the eligibility criteria for multiple categories. For instance, a project to improve resilience of a coastal evacuation route could be eligible under all three Resilience Grant categories. Applicants would need to be sure to submit all the information needed for each category under which they are applying. Applicants should indicate which funding category or categories they are applying, however FHWA reserves the discretion to determine which funding category from which to make an award for a project, including a category for which the applicant did not apply.

Different funding amounts are available for the different categories, as shown below.

Category	Approximate Funding Available this Round
<u>Planning Grants</u>	Up to \$45 million
<u>Resilience Improvement Grants</u>	Up to \$638 million
<u>Community Resilience and Evacuation Route Grants</u>	Up to \$45 million
<u>At-Risk Coastal Infrastructure Grants</u>	Up to \$120 million

For more information about the eligible activities under each grant category see Section C of this NOFO.

FHWA will award FY 2022 and FY 2023 PROTECT Discretionary Grant Program grants to eligible applicants consistent with applicable statutory criteria and priorities, merit criteria, and the Administration priorities described within this NOFO.

Eligible Applicants

The PROTECT Discretionary Grant Program provides broad applicant eligibility for all levels of government to be direct recipients of funds. States, MPOs, local governments, and Indian Tribes can apply directly to FHWA. A Federal land management agency may be eligible if the agency applies jointly with a State or group of States. (See Section C for a complete list of eligible entities). FHWA encourages all eligible entities regardless of size, location, and experience administering Federal funding awards to apply for Federal assistance for Planning Grants and Resilience Grants under this NOFO.

To assist applicants, FHWA has developed application checklists which applicants are encouraged to use. These checklists can be found under the related documents tab for this NOFO on Grants.gov. The checklists are provided solely as a prompt for applicants and are not required for the grant application.

Alignment with Administration Priorities and Strategic Goals

The PROTECT Program (Formula and Discretionary) aligns with Biden-Harris Administration policies and priorities, including DOT's Strategic Plan goals of Safety, Economic Strength and Global Competitiveness, Equity, Climate and Sustainability, Transformation, and Organizational Excellence. The program will be implemented in line with Administration and Departmental policies and orders including the America the Beautiful Initiative; the Interagency [Memorandum of Understanding \(MOU\) on Promoting Equitable Access to Nature in Nature-Deprived Communities](#) signed by DOT; DOT Climate Action Plan; DOT Equity Action Plan; Executive Order (E.O.) 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (86 FR 7009); E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629); E.O. 14008, Tackling the Climate Crisis at Home and Abroad (86 FR 7619); and E.O. 14030, Climate Related Financial Risk (86 FR 27967). Also, consistent with E.O. 14030 and E.O. 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input (80 FR 6425), project applicants should be aware that DOT is in the process of developing guidance and considering updates to its floodplain requirements, including redefining the appropriate flood hazard area to account for future climate conditions.

The Department is committed to advancing safe, efficient transportation, including in the PROTECT Discretionary Grant Program. The National Roadway Safety Strategy (NRSS), issued January 27, 2022, commits DOT to respond to the current crisis in roadway fatalities by “taking substantial, comprehensive action to significantly reduce serious and fatal injuries on the Nation’s roadways” in pursuit of the goal of achieving zero roadway deaths through a Safe System Approach. The outcomes that are anticipated from the projects funded by PROTECT Discretionary Grant Program should align with the NRSS.

The Department seeks to fund projects under the PROTECT Discretionary Grant Program that reduce greenhouse gas emissions in the transportation sector, incorporate evidence-based climate resilience measures and features, reduce the lifecycle greenhouse gas emissions from the project materials, avoid adverse environmental impacts to air or water quality, wetlands, and endangered species, and address the disproportionate negative environmental impacts of transportation on disadvantaged communities, consistent with E.O. 14008, Tackling the Climate Crisis at Home and Abroad (86 FR 7619).

The Department seeks to award projects under the PROTECT Discretionary Grant Program that will create proportional impacts to all populations in a project area, remove transportation related disparities to all populations in a project area, and increase equitable access to project benefits, consistent with E.O. 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (86 FR 7009).

The Department also seeks to award projects that address equity and environmental justice, particularly for disadvantaged communities that are marginalized, underserved, and overburdened by pollution and climate-related risks, and lack access to nature's benefits, consistent with E.O. 14008, Tackling the Climate Crisis at Home and Abroad (86 FR 7619).

The Department intends to use the PROTECT Discretionary Grant Program to support the creation of good-paying jobs with the free and fair choice to join a union and the incorporation of strong labor standards and training and placement programs, especially registered apprenticeships, in project planning stages, consistent with E.O. 14025, Worker Organizing and Empowerment (86 FR 22829), and E.O. 14052, Implementation of the Infrastructure Investment and Jobs Act (86 FR 64335). FHWA also intends to use the PROTECT Discretionary Grant Program to support wealth creation, consistent with the DOT's Equity Action Plan through the inclusion of local inclusive economic development and entrepreneurship such as the utilization of Disadvantaged Business Enterprises (DBE), Minority-owned Businesses, Women-owned Businesses, or 8(a) firms.

Please see Section E of this NOFO for more information on the FY 2022 and FY 2023 PROTECT Discretionary Grant Program selection criteria, the process for selecting projects, and how FHWA will evaluate applications in regard to these Administration priorities and goals. In addition, Section F.3 describes progress and performance reporting requirements for selected projects and the Administration's goals as appropriate.

2. Additional Information

The PROTECT Discretionary Grant Program is described in the Federal Assistance Listings under the assistance listing program title "Highway Planning and Construction" and assistance listing number 20.205.

FHWA is committed to considering project funding decisions holistically among the various discretionary grant programs available in BIL. FHWA also recognizes that applicants may be seeking funding from multiple discretionary grant programs and opportunities. An applicant may seek the same award amounts from multiple FHWA discretionary opportunities or seek a combination of funding from multiple DOT opportunities.

The applicant should identify any other DOT programs and opportunities they intend to apply for (or utilize if the Federal funding is already available to the applicant), and what award amounts they will be seeking, in the appropriate sections of this NOFO, including Section D.2.b.II. .

SECTION B – FEDERAL AWARD INFORMATION

1. Award Amount Available

For FY 2022 and FY 2023, up to \$848 million² is available for PROTECT Discretionary Grant Program awards under this notice. Of this amount, up to \$45 million is available for Planning Grants; up to \$638 million is available for Resilience Improvement Grants; up to \$45 million is available for Community Resilience and Evacuation Route Grants; and up to \$120 million is available for At-Risk Coastal Infrastructure Grants. Subject to the availability of funds, an eligible entity may request, and the Secretary may distribute funds for a grant under this subsection on a multiyear basis, as the Secretary determines to be necessary. Any award under this NOFO will be subject to the availability of funding.

2. Award Size

For FY 2022 and FY 2023 PROTECT Discretionary Grant Program Planning Grants, FHWA requests applications for a minimum award size of \$100,000 and no maximum award size.

For FY 2022 and FY 2023 PROTECT Discretionary Grant Program Resilience Improvement, Community Resilience and Evacuation Routes, and At-Risk Coast Infrastructure grants FHWA requests applications for a minimum award size of \$500,000 and no maximum award size. FHWA anticipates awarding between 30 to 40 Resilience Improvement, Community Resilience and Evacuation Routes, and At-Risk Coast Infrastructure grants.

If an applicant seeks an award amount that is less than the minimum, the application should include a justification for the requested amount. FHWA reserves the discretion to consider award sizes below the minimum award size listed above. Consideration will include the total amount of eligible PROTECT Discretionary Grant Program grant funds requested and consideration of the evaluation and selection criteria described in Section E.

² PROTECT Discretionary Grant Program funds from the Highway Account of the Highway Trust Fund are contract authority, which is reduced based on the imposition of the Federal-aid obligation limitation contained in the annual appropriations acts. Accordingly, the amount of \$250,000,000 authorized for each of FYs 2022 and 2023 is reduced to \$228,250,000 and \$219,500,000, respectively. Additional funds were appropriated from the General Fund in the FY 2022 and FY 2023 annual appropriations acts to the PROTECT Discretionary Grant Program, which are not subject to the obligation limitation (Consolidated Appropriations Act, 2023 (Public Law 117-103) and Consolidated Appropriations Act, 2023 (Public Law 117-328)).

3. Statutory Funding Provisions

a. Rural Set-Aside

Of the amounts made available for each fiscal year, the Secretary shall use not less than 25 percent for grants to projects located in areas that are outside an urban area with a population over 200,000. (23 U.S.C. § 176(d)(5)(H)(ii)).

b. Tribal Set-Aside

Of the amounts made available for each fiscal year, the Secretary shall use not less than 2 percent for grants to Indian Tribes (as defined in section 23 U.S.C. § 207(m)(1)) for eligible PROTECT Discretionary Grant Program Planning Grants, Resilience Improvement Grants, Community Resilience and Evacuate Routes Grants, and At-Risk Coastal Grants. (23 U.S.C. § 176(d)(5)(H)(iii)).

c. Unutilized Amounts

For any fiscal year, if the Secretary determines that the amount of the Rural Set-Aside or Tribal Set-Aside will not be fully utilized for PROTECT Discretionary Grant Program grants, the Secretary may reallocate the unutilized funds to provide grants to other PROTECT Discretionary Grant Program eligible entities. (23 U.S.C. § 176(d)(5)(H)(iv)).

d. Limitation on Intercity Rail Passenger Transportation

Limit on certain activities: not more than 25 percent will be used for a facility or service for intercity rail passenger transportation (as defined in 49 U.S.C. § 24102). (23 U.S.C. § 176(d)(5)(G)(ii)).

4. Availability of Funds

Selected projects will be funded with either FY 2022 or FY 2023 funds. Awards funded with FY 2022 funds must be obligated, via a signed grant agreement between FHWA and the recipient, by September 30, 2025. Awards funded with FY 2023 funds must be obligated via a signed grant agreement by September 30, 2026. Funding expenditure deadlines for FY 2022 and 2023 funds will be documented in the grant agreement depending on the fund source. To determine whether a project selected to receive a PROTECT Discretionary Grant Program award will be funded with FY 2022 or FY 2023 funds, FHWA will consider the estimated project start date provided in the application. Funds will be assigned after announcement of award during the grant agreement process.

Obligation for a PROTECT Discretionary Grant Program grant occurs when a selected applicant enters a project agreement with FHWA, and FHWA authorizes the project to proceed. For construction, this is generally after the applicant has satisfied applicable administrative requirements, including transportation planning and environmental review requirements and compliance with 23 Code of Federal Regulations (CFR) 635 subpart C “Physical Construction

Authorization” for State department of transportation (State DOT) applicants or 2 CFR 200.318 – 327 for non-State DOT applicants.

5. Type of Award

If the successful applicant is a State DOT or a State DOT will serve as a pass-through entity to a non-State DOT entity, PROTECT Discretionary Grant Program funds will be awarded upon the execution of a project agreement, which is a type of grant agreement for administration of funds to a State DOT in the Fiscal Management Information System (FMIS).

If the successful applicant is a non-State DOT, funds will be awarded upon the execution of a grant agreement with FHWA. A determination will be made if the successful applicant will administer the project or if the successful applicant included a request for an applicable State DOT, or FHWA Federal Lands Highway Division for Indian Tribe projects, to administer the project.

6. Period of Performance

If a grant recipient will be a State DOT or if a State DOT will serve as a pass-through to a non-State DOT entity awarded a grant, the DOT Payment System will be “Current Bill” in FMIS and the start of the period of performance will begin on the date PROTECT Discretionary Grant Program funds are obligated in FMIS and end on the project end date in FMIS.

If a grant recipient will be a non-State DOT entity, the DOT Payment System will be “DELPHI eInvoicing” and the start of the period of performance will begin on the date the grant agreement is executed by FHWA, which will obligate the PROTECT Discretionary Grant Program funds, and end according to the period of performance listed in the grant agreement.

SECTION C – ELIGIBILITY INFORMATION

To be selected for a PROTECT Discretionary Grant Program grant, an applicant must meet the eligibility requirements under this section including Eligible Entity; Eligible Project; Statutory Cost Sharing or Match requirements; and Statutory Applicant Requirements. Applications that do not meet these threshold eligibility requirements will not be evaluated under the criteria in Section E.1.

1. Eligible Applicants

- a. Planning Grants, Resilience Improvement Grants, and Community Resilience and Evacuation Route Grants have the same statutory rules for all applicants eligible to apply. At-Risk Coastal Grants have different statutory rules for applicant eligibility.

Eligible Applicants
Planning Grants, Resilience Improvement Grants, and
Community Resilience and Evacuation Route Grants
(23 U.S.C. § 176(d)(2))

1. A State or political subdivision of a State. (State includes the District of Columbia and Puerto Rico)
2. An MPO.
3. A unit of local government.
4. A special purpose district or public authority with a transportation function, including a port authority.
5. An Indian Tribe (as defined in 23 U.S.C. § 207(m)(1)).
6. A Federal land management agency that applies jointly with a State or group of States.
7. A multi-State or multijurisdictional group of entities described in (1) through (6).

Eligible Applicants
At-Risk Coastal Infrastructure Grants
23 U.S.C. § 176(d)(4)(C)(i)(I-VIII)

1. A State (including the U.S. Territories Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands) in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes.
2. A political subdivision of a State described in (1.) above.
3. An MPO in a State described in (1.) above.
4. A unit of local government in a State described in (1.) above.
5. A special purpose district or public authority with a transportation function, including a port authority, in a State described in (1.) above.
6. An Indian Tribe in a State described in (1.) above.
7. A Federal land management agency that applies jointly with a State or group of States described in (1.) above.
8. A multi-State or multijurisdictional group of entities described in (1.) through (7.) above.

b. Joint Applications for Any PROTECT Discretionary Grant Program Funding Category

Multiple States or a multijurisdictional group that submits a joint application should identify a lead applicant as the primary point of contact. Joint applications should include a description of the roles and responsibilities of each applicant and should be signed or include a letter of support by each applicant. The applicant that will be responsible for financial administration of the project and the recipient of a PROTECT Discretionary Grant Program award must be an eligible applicant.

2. Cost Sharing or Matching

For PROTECT Discretionary Grant Program Planning Grants, the Federal share of an eligible planning activity shall be 100 percent. (23 U.S.C. § 176(d)(5)(E)(i)).

For PROTECT Discretionary Grant Program Resilience Grants, the Federal share of an eligible project shall not exceed 80 percent of the total cost of the project. (23 U.S.C. § 176(d)(5)(E)(ii)(I)). If an Indian Tribe (as defined in 23 U.S.C. § 207(m)(1)) receives a Resilience Improvement Grant and Community Resilience and Evacuation Route Grant or At-Risk Coastal Infrastructure Grants, on the determination of the Secretary of DOT, the Federal share of an eligible project may be up to 100 percent. (23 U.S.C. § 176(d)(5)(E)(ii)(II)).

Per 23 U.S.C. § 176(d)(5)(E)(iii), an eligible entity may use Federal funds other than a grant under the PROTECT Discretionary Grant Program to meet the non-Federal cost share requirement. However, the non-Federal share requirements for those other Federal funds must still be met. In addition to applicable Federal share requirements, eligibility requirements must also be met for all funds involved on the PROTECT Discretionary Grant Program project. Matching funds are subject to the same Federal requirements as PROTECT Discretionary Grant Program funds described in Section F.2. Unless otherwise authorized by statute, the cost-share may not be counted as non-Federal share for both a PROTECT Discretionary Grant Program project and another Federal program.

For the PROTECT Discretionary Grant Program, like the PROTECT Formula Program, grant funds can only be used for activities that are primarily for the purpose of resilience or inherently resilience related. As such, only the incremental cost of making assets more resilient are eligible for PROTECT funding. (For more information, see “Promoting Resilient Operations for Transformative, Efficient, and Cost Saving Transportation (PROTECT) Formula Program Implementation Guidance” July 29, 2022, p.14 available at (https://www.fhwa.dot.gov/environment/sustainability/resilience/policy_and_guidance/protect_formula.pdf)). The PROTECT Discretionary Grant Program project cost cannot include any previously incurred costs.

Applicants should use the following equation when determining the cost share for their Resilience grant project:

(PROTECT Grant + Other Funds for the Project) = Total PROTECT Discretionary Grant Program Project Cost

PROTECT Grant must be $\leq 0.80 \times$ Total PROTECT Discretionary Grant Program Project Cost

However, the non-Federal share shall be reduced as provided under 23 U.S.C. § 176(e)(1)(B)(i) and (ii) to a maximum reduction of 10 percent³ under 23 U.S.C. § 176(e)(1)(B)(iii)(I).

The non-Federal share of the cost of a project carried out using PROTECT Formula Program funds may be reduced by seven percentage points if the State has developed a Resilience Improvement Plan and prioritized the project on that Resilience Improvement Plan (23 U.S.C. 176(e)(1)(B)(i)); and three percentage points if a State Resilience Improvement Plan developed in accordance with Section 176(e) is incorporated (directly or by reference) into the metropolitan transportation plan under 23 U.S.C. 134 or the statewide long-range transportation plan under 23 U.S.C. 135, as applicable. (23 U.S.C.176(e)(1)(B)(ii)).

For example, a State may have a resilience project eligible under PROTECT that is prioritized in its Resilience Improvement Plan developed under Section 176(e). Provided the State meets all procedural requirements for the Resilience Improvement Plan, the scenario may result in a split of 87 percent PROTECT Formula Program funds and 13 percent non-Federal funds. In a variation of the same scenario, if the State also incorporates the Resilience Improvement Plan into the long-range statewide transportation plan, it may result in a split of 90 percent of PROTECT Formula Program funds and a non-Federal share of 10 percent.

Reduction of Non-Federal Share for Resilience Grants			
Project is Prioritized in a Resilience Improvement Plan (23 U.S.C. § 176(e)(1)(B)(i))		Resilience Improvement Plan is Incorporated in Other Planning (23 U.S.C. § 176(e)(1)(B)(ii))	
7% Reduction		3% Reduction	
Eligible Entity (Applicant)	Requirements	Eligible Entity (Applicant)	Requirements
State or MPO	1. Developed a Resilience Improvement Plan in accordance with 23 U.S.C. § 176(e)(2); and	State or MPO	The Resilience Improvement Plan developed in accordance with 23 U.S.C. § 176(e)(2) has been incorporated into the

³ A reduction of the non-Federal share under 23 U.S.C. § 176(e)(1)(B) shall not reduce the non-Federal share of the costs of a PROTECT Discretionary Grant Program Resilience Grant funded project to an amount that is less than zero. (23 U.S.C. § 176(e)(1)(E)(B)(iii)(II)).

	2. The project is prioritized on the Resilience Improvement Plan developed in (1.) above.		metropolitan transportation plan under 23 U.S.C. § 134 or the long-range statewide transportation plan under 23 U.S.C. § 135, as applicable.
Non-State or Non-MPO	<p>Non-State or Non-MPO is located in a State or area served by a MPO that has:</p> <p>a. Developed a Resilience Improvement Plan in accordance with 23 U.S.C. § 176(e)(2); and</p> <p>b. The project is prioritized on the Resilience Improvement Plan developed in (1.) above.</p>	Non-State or Non-MPO	Non-State or Non-MPO is located in a State or area served by a MPO that has incorporated the Resilience Improvement Plan developed in accordance with 23 U.S.C. § 176(e)(2) into the metropolitan transportation plan under 23 U.S.C. § 134 or the long-range statewide transportation plan under 23 U.S.C. § 135, as applicable.

For each project that receives a grant under this notice, FHWA expects the project to be completed using at least the amount of matching funds that was specified in the application.

See Section D.2.b.II for information about documenting cost sharing in the application.

3. Other

a. Eligible Projects

Eligible activities are different for each of the four types of grants under the PROTECT Discretionary Grant Program. Example projects can be found in the [PROTECT Formula Program Implementation Guidance](#).

Eligible Projects	
PROTECT Discretionary Grant Program Funding Category	Project Activities
Planning Grant 23 U.S.C. § 176(d)(3)	<ol style="list-style-type: none"> 1. In the case of a State or MPO, developing a Resilience Improvement Plan under 23 U.S.C. § 176(e)(2); 2. Resilience planning, predesign, design, or the development of data tools to simulate transportation disruption scenarios, including vulnerability assessments; 3. Technical capacity building by the eligible entity to facilitate the ability of the eligible entity to assess the vulnerabilities of the surface transportation assets and community response strategies of the eligible entity under current conditions and a range of potential future conditions; or 4. Evacuation planning and preparation.
Resilience Improvement Grant 23 U.S.C. § 176(d)(4)(A)(ii)	<p>One or more construction activities to improve the ability of an existing surface transportation asset to withstand one or more elements of a weather event or natural disaster, or to increase the resilience of surface transportation infrastructure from the impacts of changing conditions, such as sea level rise, flooding, wildfires, extreme weather events, and other natural disasters including:</p> <ol style="list-style-type: none"> 1. Resurfacing, restoration, rehabilitation, reconstruction, replacement, improvement, or realignment of an existing surface transportation facility eligible for assistance under this title; 2. The incorporation of natural infrastructure; 3. The upgrade of an existing surface transportation facility to meet or exceed a design standard adopted by FHWA; 4. The installation of mitigation measures that prevent the intrusion of floodwaters into surface transportation systems; 5. Strengthening systems that remove rainwater from surface transportation facilities;

	<ul style="list-style-type: none">6. Upgrades to and installation of structural stormwater controls;7. A resilience project that addresses identified vulnerabilities described in the Resilience Improvement Plan of the eligible entity, if applicable;8. Relocating roadways in a base floodplain to higher ground above projected flood elevation levels, or away from slide prone areas;9. Stabilizing slide areas or slopes;10. Installing riprap;11. Lengthening or raising bridges to increase waterway openings, including to respond to extreme weather;12. Increasing the size or number of drainage structures;13. Installing seismic retrofits on bridges;14. Adding scour protection at bridges;15. Adding scour, stream stability, coastal, and other hydraulic countermeasures, including spur dikes;16. Vegetation management practices in transportation rights-of-way to improve roadway safety, prevent against invasive species, facilitate wildfire control, and provide erosion control; and17. Any other protective features, including natural infrastructure, as determined by the Secretary.
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<p>Community Resilience and Evacuation Route Grant 23 U.S.C. § 176(d)(4)(B)(ii)</p>	<p>One or more projects that strengthen and protect evacuation routes that are essential for providing and supporting evacuations caused by emergency events, including a project that-</p> <ol style="list-style-type: none"> 1. Is a Resilience Improvement Project under 23 U.S.C. § 176(d)(4)(A)(ii), if that eligible activity will improve an evacuation route; 2. Ensures the ability of the evacuation route to provide safe passage during an evacuation and reduces the risk of damage to evacuation routes as a result of future emergency events, including restoring or replacing existing evacuation routes that are in poor condition or not designed to meet the anticipated demand during an emergency event, and including steps to protect routes from mud, rock, or other debris slides; 3. If the eligible entity notifies⁴ the Secretary that existing evacuation routes are not sufficient to adequately facilitate evacuations, including the transportation of emergency responders and recovery resources, expands the capacity of evacuation routes to swiftly and safely accommodate evacuations, including installation of- <ol style="list-style-type: none"> (a) Communications and intelligent transportation system equipment and infrastructure; (b) Counterflow measures; or (c) Shoulders;
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⁴ See [PROTECT Formula Program Implementation Guidance](https://www.fhwa.dot.gov/environment/sustainability/resilience/policy_and_guidance/protect_formula.pdf) (https://www.fhwa.dot.gov/environment/sustainability/resilience/policy_and_guidance/protect_formula.pdf).

	<p>4. Is for the construction of new or redundant evacuation routes, if the eligible entity notifies the Secretary that existing evacuation routes are not sufficient to adequately facilitate evacuations, including the transportation of emergency responders and recovery resources;</p> <p>5. Is for the acquisition of evacuation route or traffic incident management equipment or signage; or</p> <p>6. Will ensure access or service to critical destinations, including hospitals and other medical or emergency service facilities, major employers, critical manufacturing centers, ports and intermodal facilities, utilities, and Federal facilities.</p>
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b. Statutory Eligibility Criteria for At-Risk Coastal Infrastructure Grants

- 1. Eligible Project.** The Secretary shall provide At-Risk Coastal Infrastructure grants for projects (I) that address the risks from a current or future weather event or natural disaster, including coastal flooding, coastal erosion, wave action, storm surge, or sea level change; and (II) that reduce long-term infrastructure costs by avoiding larger future maintenance or rebuilding costs. (23 U.S.C. 23 U.S.C. § 176(d)(4)(C)(iv)).

FHWA will determine whether an application for an At-Risk Coastal Infrastructure grant meets the project eligibility projects by (1) addressing how the project will use data or evidence (qualitative or quantitative) that the proposed project will effectively improve resilience to current and future weather events and natural disasters and changing conditions, and (2) validating the documentation provided by the applicant demonstrating that the proposed project to be carried out by the eligible entity will reduce long-term infrastructure costs by avoiding larger future maintenance or rebuilding costs.

Documentation for (II) above should detail projected costs associated with build and no-build case scenarios. Applicants are encouraged to establish a clear baseline from which the incremental cost reduction of a proposed project can be derived. Maintenance and rebuilding costs associated with existing and future hazard risk and those that would accrue apart from hazard risks, altogether, should be provided. The build case should account for the non-hazard maintenance costs associated with the project as well as the expected reduction in maintenance or rebuilding costs. For projects involving the construction of new infrastructure, total non-hazard maintenance costs would be zero in the base case, so net non-hazard maintenance costs would typically be positive, reflecting the ongoing expenditures needed to maintain the new asset over its lifecycle. For projects intended to replace, reconstruct, or rehabilitate existing infrastructure, however, the net change in non-hazard maintenance costs under the proposed project will often be negative, as newer infrastructure requires less frequent and less costly maintenance to keep it in service than would an aging, deteriorating asset.

- ii. Eligible Activities.** Eligible activities for eligible At-Risk Coastal Infrastructure projects are: strengthening, stabilizing, hardening, elevating, relocating, or otherwise enhancing the resilience of highway and non-rail infrastructure, including bridges, roads, pedestrian walkways, and bicycle lanes, and associated infrastructure, such as culverts and tide gates to protect highways, that are subject to, or face increased long-term future risks of, a weather event, a natural disaster, or changing conditions, including coastal flooding, coastal erosion, wave action, storm surge, or sea level rise, in order to improve transportation and public safety and to reduce costs by avoiding larger future maintenance or rebuilding costs. (23 U.S.C. § 176(d)(4)(C)(iii)).

c. System Resilience for Resilience Grants

A PROTECT Discretionary Grant may include the use of natural infrastructure or the construction or modification of storm surge, flood protection, or aquatic ecosystem restoration elements functionally connected to a transportation improvement, such as:

1. Increasing marsh health and total area adjacent to a highway right-of-way to promote additional flood storage;
2. Upgrades to and installing of culverts designed to withstand 100-year flood events;
3. Upgrades to and installation of tide gates to protect highways; and
4. Upgrades to and installation of flood gates to protect tunnel entrances.

d. Eligible Facilities

A PROTECT Discretionary Grant Program Planning Grant or Resilience Grant may be awarded only for the following facilities:

1. a highway⁵ project eligible for assistance under this title;
2. a public transportation facility or service eligible for assistance under chapter 53 of title 49;
3. a facility or service for intercity rail passenger transportation (as defined in section 24102 of title 49); or
4. a port facility, including a facility that:
 - a. connects a port to other modes of transportation;
 - b. improves the efficiency of evacuations and disaster relief; or
 - c. aids transportation. (23 U.S.C. § 176(d)(5)(C)).

e. Statutory Requirements for Resilience Projects in Floodplains

If a PROTECT Discretionary Grant Program project is proposed to be carried out, in whole or in part, within a base floodplain, under 23 U.S.C. § 176(d)(5)(B)(ii) the application must include the following:

1. Identification of the floodplain in which the project is to be located and disclose that information to the Secretary in the application; and
2. Indication, whether, if selected, the eligible entity will implement one or more components of the risk mitigation plan under section 322 of the [Robert T. Stafford Disaster Relief and Emergency Assistance Act](#) (42 U.S.C. § 5165) with respect to the area.

Transportation infrastructure should not be built in floodplain areas if it can be avoided. If it cannot be avoided then the transportation infrastructure should be built to minimize impacts to floodplain function (to reduce risk to others) as well as built to protect transportation safety.

⁵ The term “highway” includes a road, street, and parkway; a right-of-way, bridge, railroad-highway crossing, tunnel, drainage structure including public roads on dams, sign, guardrail, and protective structure, in connection with a highway; and a portion of any interstate or international bridge or tunnel and the approaches thereto, the cost of which is assumed by a State transportation department, including such facilities as may be required by the U.S. Customs and Immigration Services in connection with the operation of an international bridge or tunnel. 23 U.S.C. § 101(a)(11)

Nature-based solutions may be one option for reducing impacts to the floodplain while protecting infrastructure.

f. Eligible Project Costs

For the PROTECT Discretionary Grant Program, like the PROTECT Formula Program, grant funds can only be used for activities that are primarily for the purpose of resilience or inherently resilience related. The focus should be on the incremental cost of making transportation assets more resilient. However, to the extent that the primary purpose of a project is to address resilience, it could be eligible to be fully funded (up to the applicable Federal share). Final determinations regarding whether an improvement is eligible for PROTECT Discretionary Grant Program funding are made by FHWA. Other project components that are not inherently resilience-focused should generally be funded from other sources, including other Title 23 programs.

Eligible project costs are different for planning grants vs. resilience grants.

Eligible Project Costs	
Planning Grants (23 U.S.C. § 176(d)(5)(F)(ii))	Resilience Grants (23 U.S.C. § 176(d)(5)(F)(i))
Development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, other preconstruction activities, and other activities consistent with carrying out an eligible PROTECT Discretionary Grant Program Planning project.	<ol style="list-style-type: none"> 1. Development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities; and 2. Construction, reconstruction, rehabilitation, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, acquisition of equipment directly related to improving system performance, and operational improvements.

g. Limitation on Award

Limitations	
Planning Grants	Resilience Grants (23 U.S.C. § 176(d)(5)(G)(i) and (ii))
No limitations.	<ol style="list-style-type: none"> 1. New Construction. No more than 40 percent of the amount of a PROTECT Discretionary Grant Program Resilience Grant may fund construction of new capacity; and 2. Planning Activities. No more than 10 percent of the amount of a PROTECT Discretionary Grant Program

	Resilience Grant may fund eligible development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities described under 23 U.S.C. § 176(d)(5)(F)(i).
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h. Definition of Urban and Rural Communities

For purpose of this notice, the PROTECT Discretionary Grant Program defines a rural area as any area outside of an Urbanized Area with a population over 200,000. (23 U.S.C. § 176(d)(5)(H)(ii)). An Urbanized Area is defined under 23 U.S.C. § 101(36) as an “[a]rea with a population of 50,000 or more designated by the Bureau of the Census.” For the PROTECT Discretionary Grant Program rural set-aside, Congress established a population threshold of 200,000 for eligibility out of urbanized areas with a population of 50,000. U.S. Census Bureau population data is available at <https://data.census.gov>.

SECTION D – APPLICATION AND SUBMISSION INFORMATION

1. Address to Request Application Package

All application materials may be found on Grants.gov at <http://www.grants.gov>.

Once at Grants.gov, select the Search Grants tab. Then enter one of the following:

- Opportunity Number: 693JJ323NF00013
- Opportunity Name: PROTECT Discretionary Grant Program
- Assistance Listing Number: 20.205 – Highway Planning and Construction

When at one of these pages, select the Opportunity, which will open to a page with several tabs. The first tab is a synopsis of the opportunity. Select the Application Package tab to download the forms needed to submit an FY 2022 and FY 2023 PROTECT Discretionary Grant Program grant applications.

For a TDD, please call (202) 366-3993. If potential applicants are unable to download the application package from the internet, they may send a written request for a paper copy to the below address. Requests should be sent to:

Robert Miller
Agreement Officer
Office of Acquisition and Grants Management
Federal Highway Administration
U.S. Department of Transportation
1200 New Jersey Ave., SE.
Washington, DC 20590
Email: PROTECTdiscretionary@dot.gov (preferred)
Phone: (202) 366-9167

Alternate:

Robin Hobbs
Agreement Officer/Team Leader
Office of Acquisition and Grants Management
Federal Highway Administration
U.S. Department of Transportation
1200 New Jersey Ave., SE.
Washington, DC 20590
Email: PROTECTdiscretionary@dot.gov (preferred)
Phone: (202) 366-4004

Office hours are from 7:30 a.m. to 4:00 p.m., Eastern Time, Monday through Friday, except Federal holidays.

2. Content and Form of Application Submission

All applications must be submitted electronically through grants.gov.

The application package must consist of the following in this order:

a. Application Forms:

1. Standard Form 424

Note: Applicants may leave fields 5a, 5b, 6, 7, and 13 blank on the form.

Note: A number of separate PDF flat files must be attached in Item 15 to provide required project information that is not included in the body of the SF-424.

Instructions for adding Item 15 Attachments:

Click on “Add Attachments” in Item 15 to open the first pop-up window. Click “Add Attachment” and a second pop-up File Explorer/Directory window will appear, from which you can choose files to attach. Attachments can be added one at a time or all at once by holding down the CTRL key and selecting multiple files. Select “Open” to add the selected files as attachments.

Click “Done” to finalize the attachments.

Click “View Attachments” to see a list of files that have been added as attachments.

Required attachment(s): the Project Narrative must be added as Attachments to Item 15 of the SF-424:

2. Required Forms for Non-Construction Projects

Applicants proposing non-construction-related projects must submit the following forms: Standard Form 424A (Budget Information for Non-Construction Programs); and Standard Form 424B (Assurances for Non-Construction Programs).

Note: The Standard Form 424A should be supported by a budget narrative explaining each element of cost.

3. Required Forms for Construction Projects

Applicants proposing construction-related projects must submit the following forms:

Standard Form 424C (Budget Information Construction Programs); and Standard Form 424D (Assurances for Construction Programs).

Note: The Standard Form 424C should be supported by a budget narrative explaining each element of cost.

4. Mandatory Forms for All Applications

Grants.gov Lobbying Form; and
Disclosure of Lobbying Activities form (SF-LLL).

Note: All mandatory forms are available for download at
<https://www.grants.gov/web/grants/forms/sf-424-mandatory-family.html>.

b. Project Narrative

FHWA recommends that the project narrative follow the outline below. Following the outline will also assist evaluators in locating relevant information.

I. Basic Project Information – Description, Location, and Parties	See D.2.b.I
II. Grant Funds, Sources and Uses of all Project Funding	See D.2.b.II
III. Merit Criteria	See D.2.b.III
IV. Benefit-Cost Analysis	See D.2.b.IV
V. FHWA Priority Considerations	See D.2.b.V

The project narrative should provide information, including a table of contents, maps, and graphics as appropriate, necessary for FHWA to determine that the project satisfies project requirements described in Section C for the grant program and to assess the selection criteria specified in Section E.1.

To the extent practicable, applicants should provide supporting data and documentation in a form that is directly verifiable by FHWA. FHWA may, but is not required to, request additional information, including additional data, to clarify supporting data and documentation submitted in an application, but FHWA encourages applicants to submit the most relevant and complete information they can provide. FHWA also encourages applicants, to the extent practicable, to provide data in a form that is publicly available or verifiable. To ensure a fair and unbiased evaluation of applications submitted under this notice, FHWA will not request additional information to perfect incomplete applications.

FHWA recommends that the project narrative be prepared with standard formatting preferences (i.e., a single-spaced document, using a standard 12-point font such as Times New Roman, with 1-inch margins). The project narrative should not exceed 25 pages in length. Appendices may include documents supporting assertions or conclusions made in the 25-page project narrative and do not count towards the 25-page limit. If possible, Website links to supporting documentation should be provided rather than copies of these supporting materials. If supporting documents are submitted, applicants should clearly identify within the project narrative the

relevant portion of the project narrative that each supporting document supports. FHWA recommends using appropriately descriptive final names (e.g., “Project Narrative,” “Maps,” “Memoranda of Understanding and Letters of Support,” etc.) for all attachments. FHWA recommends applications include the following sections:

I. Basic Project Information – Project Description, Location, and Parties

The applicant should provide a concise description of the project including a discussion of the project’s history and a description of any previously incurred costs. The applicant may use this section to place the project into a broader context of other infrastructure investments being pursued by the project sponsor.

The applicant should describe in the application the project location, including a detailed geographical description of the proposed project, a map of the project’s location and connections to existing transportation infrastructure, and geospatial data describing the project location (shapefiles will be accepted under 200MB file size). The application should also identify:

- (a) If the project is located in a [Transportation Disadvantaged Census Tract](https://usdot.maps.arcgis.com/apps/dashboards/d6f90dfcc8b44525b04c7ce748a3674a) as identified in the arcgis online tool (<https://usdot.maps.arcgis.com/apps/dashboards/d6f90dfcc8b44525b04c7ce748a3674a>);
- (b) If there is an applicable Resilience Improvement Plan under 23 U.S.C. § 176(e)(2), and if so, whether the proposed project is included and whether the project is prioritized in the applicable plan.. (23 U.S.C. § 176(d)(4)(A)(iii)(I) and 23 U.S.C. § 176(e)(1)(B));
- (c) the floodplain in which the project is to be located and whether, if selected, the eligible entity will implement one or more components of the risk mitigation plan under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165) with respect to the area (23 U.S.C. § 176(d)(5)(B)(ii)) (as applicable); and
- (d) in a detailed description, the projected changes in development patterns, demographics, and extreme weather events, identify the evidence and analysis upon which the project changes are based. Include verifiable information about the source of the information. Development pattern changes could come from a State DOT, MPO, Regional Planning Agency or local planning agency (applicable for a Community Resilience and Evacuation Route grant).

Information under (b) may be used for FHWA’s internal data tracking.

To the extent possible, FHWA encourages, but is not requiring, applicants to identify the degree to which the project may contribute to the functioning and growth of the economy, including the extent to which the project addresses congestion or freight connectivity, bridges service gaps in rural areas, or promotes greater land-use productivity, including main street revitalization or locally-driven density decisions that support equitable commercial and mixed-income residential development.

This section of the application should provide details about the lead applicant. The details should include the lead applicant's demonstrated experience with receipt and expenditure of Federal-aid highway program funds under title 23, U.S.C. If an application is rated highly under other criteria, but the applicant has no or limited experience with the receipt and expenditure of Federal-aid highway program funds, FHWA may contact the applicant prior to final selection of FY 2022 and FY 2023 awards to discuss technical resources that may be available to assist the applicant in obtaining the capacity and expertise to ensure compliance with all applicable Federal requirements and timely delivery of the project. The applicant should describe in detail all the other public and private parties who are involved in delivering the project, including a specific description of the role of each entity in delivering the project.

II. Grant Funds, Sources and Uses of all Project Funding

Project budgets should show how different funding sources will share in each activity and present those data in dollars and percentages. The budget should identify other Federal funds the applicant is applying for or has been awarded, if any, that the applicant intends to use. Funding sources should be grouped into three categories: non-Federal, PROTECT Discretionary Grant Program, and other Federal with specific amounts from each funding source.

The applicant should describe the PROTECT Discretionary Grant Program eligible project budget in detail and the plans for covering the full cost of the project from all sources. The applicant should provide the following:

- All Federal funds to be used for future eligible costs of the project, including the requested PROTECT Discretionary Grant Program amount, other Federal grants that have been awarded to the project or for which the project intends to apply in the future, and any Federal formula funds that have already been programmed for the project or are planned to be programmed for the project.
- For each category of Federal funds to be used for future eligible project costs, the amount, nature, and source of any required non-Federal match for those funds.

Grant funds can only be used for activities that are primarily for the purpose of resilience or inherently resilience related.

Detailed Budget: If the project contains components, the budget should separate the costs of each project component. If the project will be completed in phases, the budget should separate the costs of each phase. The budget should be detailed enough to demonstrate that the project satisfies the PROTECT Discretionary Grant Program statutory cost-sharing requirements described in Section C.2 and those associated with each category of Federal funding. The application should include information showing that the applicant has budgeted sufficient contingency amounts to cover unanticipated cost increases. In addition to the information enumerated above, this section should provide complete information on how all project funds may be used. For example, if a source of funds is available only after a condition is satisfied, the application should identify that condition and describe the applicant's control over whether it is satisfied. Similarly, if a source of funds is available for expenditure only during a fixed period,

the application should describe that restriction. Complete information about project funds will ensure that FHWA’s expectations for award execution align with any funding restrictions unrelated to FHWA, even if an award differs from the applicant’s request.

III. Merit Criteria

The applicant should describe how the proposal meets the Merit Criteria listed in Section E.1.

IV. Economic Analysis

This section outlines the requirements and describes the recommended approach for the completion and submission of a benefit-cost analysis (BCA) and other required costing information for the PROTECT Discretionary Grant Program.

Economic Analysis Requirements		
PROTECT Discretionary Grant Program Funding Category	Requirements	Purpose
Planning Grant 23 U.S.C. § 176(d)(3)	Benefit Cost Analysis NOT required.	N/A
Resilience Improvement Grant 23 U.S.C. § 176(d)(4)(A)(iii)	Benefit Cost Analysis required, unless the project is in a qualifying Resilience Improvement Plan (23 U.S.C. § 176(e)(2)).	Project Prioritization
Community Resilience and Evacuation Route Grant 23 U.S.C. § 176(d)(4)(B)(iii)	Benefit Cost Analysis required.	Project Prioritization
At-Risk Coastal Infrastructure Grant 23 U.S.C. § 176(d)(4)(C)(iv)	Benefit Cost Analysis NOT required however, must demonstrate that the project would reduce long-term infrastructure costs by avoiding larger future maintenance or rebuilding costs.	Project Eligibility

The purpose of the BCA is to enable FHWA to evaluate the project’s cost effectiveness by comparing its expected benefits to its expected costs, relative to a no-build scenario for the purpose of project prioritization. Projects requiring a BCA (see Economic Analysis Requirements table), should provide a narrative description of their BCA in their project narrative, as well as all relevant files used for their BCA, including any spreadsheet files

(unlocked) and technical memos describing the analysis. The spreadsheets and technical memos should present the calculations in sufficient detail and transparency to allow the analysis to be reproduced by FHWA evaluators.

The BCA should carefully document the assumptions and methodology used to produce the analysis, including a description of the baseline, the sources of data used to project the outcomes of the project, and the values of key input parameters. The analysis should provide present value estimates of a project's benefits and costs relative to a no-build baseline. To calculate present values, applicants should apply a real discount rate of 7 percent per year to the project's streams of benefits and costs, which should be stated in constant-dollar terms. The costs and benefits that are compared in the BCA must cover the same project scope.

Any benefits claimed for the project, both quantified and unquantified, should be clearly tied to the expected outcomes of the project including climate resilience benefits such as damages avoided. Projected benefits may accrue to both users of the facility and those who are affected by its use (such as through changes in emissions of greenhouse gases and other pollutants, access to services and green spaces, or availability of affordable housing or more affordable transportation choices). Usage forecasts applied in estimating future benefits should account for any additional demand induced by the improvements to the facility. While benefits should be quantified wherever possible, applicants are encouraged to describe other categories of benefits in the BCA that are more difficult to quantify and/or value in economic terms (e.g., benefits associated with nature-based solutions or for documenting benefit of evacuation during emergency events).

The BCA should include the full costs of developing, constructing, operating, and maintaining the proposed project compared to those costs for the existing facility, and the expected timing or schedule for costs in each of these categories. The BCA should include the costs that may accrue to those affected by the proposed project's construction or use. The BCA may also include the present discounted value of any remaining service life of the asset at the end of the analysis period.

Detailed guidance from DOT on estimating benefits and costs, together with recommended economic values for converting them to dollar terms and discounting to their present values, is available on the DOT Website (see <https://www.transportation.gov/mission/office-secretary/office-policy/transportation-policy/benefit-cost-analysis-guidance>).

Applications for At Risk Coastal Infrastructure grants must demonstrate that the project will reduce long-term infrastructure costs by avoiding larger future maintenance or rebuilding costs. See Section C.3.b. (Statutory Eligibility Criteria for At-Risk Coastal Infrastructure Grants) of this notice for information on required documentation.

Economic Analysis Flexibility for Indian Tribes

FHWA is providing additional flexibility to Indian Tribes regarding the information required in a BCA. At their discretion, Indian Tribe applicants may elect to provide raw data with their application to support the need for a project, without additional analysis. The applicant should

provide clear identification of the problem to be solved by the project (asset risk); estimation of the costs of the proposed project; current and projected future asset use (e.g., vehicle miles traveled, ridership, freight movement); and projection of the expected impacts of the project. An important benefit of projects that improve the resilience of existing transportation assets is travel time savings, for example from avoiding or reducing the amount of time an asset is closed. For such projects, applicants are encouraged to provide information that will enable FHWA to calculate travel time savings from a project. Such information may include the average amount of additional travel time from using the next best highway route. FHWA will use this data to develop estimates (given the data provided) of benefits and costs.

V. FHWA Priority Considerations

The applicant should describe how the proposal meets FHWA FY 2022 FY 2023 Priority Considerations listed in Section E.1.

3. UNIQUE ENTITY IDENTIFIER (UEI) AND SYSTEM FOR AWARD (SAM)

Effective April 4, 2022, the Data Universal Numbering System (DUNS) number is no longer required for entities doing business with the Federal Government and has been replaced by the SAM UEI. As of that date, applicants are required to use a UEI issued during the SAM.gov registration process. Active registrants in SAM.gov have had their SAM UEI automatically assigned, and it is currently viewable within SAM.gov. There is no additional action necessary for registered entities to take to obtain their SAM UEI.

Each applicant is required to:

- a. Be registered in SAM before submitting their application;
- b. Provide a valid UEI in their application; and
- c. Continue to maintain an active SAM registration with current information at all times during which the applicant has an active Federal award or an application or plan under consideration by a Federal awarding agency.

Please see <https://www.grants.gov/web/grants/applicants/applicant-faqs.html#UEI> for more information on the transition from DUNS to SAM UEI, including what UEI to enter into the UEI field on grants.gov and on application package forms.

FHWA may not make a Federal award to an applicant until the applicant has complied with all applicable UEI and SAM requirements. If an applicant has not fully complied with the requirements by the time the Federal awarding agency is ready to make a Federal award, the Federal awarding agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

NOTE TO APPLICANTS: The SAM.gov requires the registrant to provide a UEI number to complete the registration. These processes can take several weeks to complete so they should be started well before the application deadline.

4. SUBMISSION DATES AND TIMES

Applications must be submitted electronically through grants.gov no later than 11:59 p.m., Eastern Standard Time on August 18, 2023 (the “application deadline”).

5. INTERGOVERNMENTAL REVIEW

An application under this NOFO is not subject to the Intergovernmental review under E.O. 12372.

6. FUNDING RESTRICTIONS

- a. Pre-PROTECT Discretionary Grant Program award costs will not be reimbursed.
- b. Grant funds may not be used to support or oppose union organizing, whether directly or as an offset for other funds.
- c. For more information on Eligible Project Costs see Section C.3.e.

7. OTHER SUBMISSION REQUIREMENTS

a. Scalable Project Options

Applicants are encouraged to identify scaled funding options in case insufficient funding is available to fund a project at the full requested amount. If an applicant advises that a project is scalable, the applicant must provide an appropriate minimum funding amount that will fund an eligible project that achieves the objectives of the program and meets all relevant program requirements. The applicant must provide a clear explanation of how the project budget would be affected by a reduced award. FHWA may award a lesser amount whether or not a scalable option is provided.

b. Submission Location

Applications must be submitted to *Grants.gov*.

c. Consideration of Applications

Only applicants who comply with all submission deadlines described in this notice and electronically submit valid applications through *Grants.gov* will be eligible for award. Applicants are strongly encouraged to make submissions in advance of the deadline.

d. Late Applications

Applicants experiencing technical issues with Grants.gov that are beyond the applicant's control must contact PROTECTdiscretionary@dot.gov prior to the application deadline with the username of the registrant and details of the technical issue experienced. The applicant must provide:

- (1) Details of the technical issue experienced;
- (2) Screen capture(s) of the technical issues experienced along with corresponding Grants.gov "Grant tracking number;"
- (3) The "Legal Business Name" for the applicant that was provided in the SF-424;
- (4) The Point of Contact name submitted in the SF-424;
- (5) The UEI associated with the application; and
- (6) The Grants.gov Help Desk Tracking Number.

To ensure a fair competition of limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) failure to complete the registration process before the deadline; (2) failure to follow Grants.gov instructions on how to register and apply as posted on its Website; (3) failure to follow all instructions in this NOFO; and (4) technical issues experienced with the applicant's computer or information technology environment.

After FHWA reviews all information submitted and contacts the Grants.gov Help Desk to validate reported technical issues, FHWA staff will contact late applicants to approve or deny a request to submit a late application through Grants.gov. FHWA will not accept appeals of FHWA's decision to approve or deny a request for a late application. If the reported technical issues cannot be validated, late applications will be rejected as untimely.

e. Compliance with Section 508 of the Rehabilitation Act of 1973

FHWA encourages applicants to submit documents that are compliant with Section 508 of the Rehabilitation Act of 1973. Section 508 guidelines are available at <https://www.access-board.gov/ict/>.

f. Sharing of Application Information

The Department may share application information within the Department or with other Federal Agencies if the Department determines that sharing is relevant to the respective program's objectives.

SECTION E – APPLICATION REVIEW INFORMATION

1. Criteria

FHWA will evaluate applications using the criteria below. The criteria for Planning grants are different from Resilience grants.

For Planning Grants, the merit criteria are:

1. Program Alignment
2. Schedule and Budget
3. Public Engagement, Partnerships and Collaboration.
4. Innovation

For Resilience Grants, the merit criteria are:

1. Vulnerability and Risk
2. Criticality to Community
3. Design Elements
4. Public Engagement, Partnerships and Collaboration
5. Equity and Justice⁴⁰
6. Climate Change and Sustainability
7. Schedule and Budget
8. Innovation

The Review Team will consider whether the application narrative is responsive to the merit criteria using the rating scale below:

Rating Scale	High	Medium	Low	Non-Responsive
Description	The application is substantively and comprehensively responsive to the criterion. It makes a strong case, including sufficient detail and evidence, that it will advance all of the areas described in the criterion descriptions.	The application is moderately responsive to the criterion. It makes a moderate case, including some detail and evidence, that it will advance all or some of the areas described in the criterion descriptions.	The application is minimally responsive to the criterion. It makes a weak case, including insufficient detail or evidence, about advancing the areas described in the criterion descriptions.	The narrative indicates the proposal is counter to the criterion or does not contain sufficient information. It does not advance or may negatively impact criterion goals.

a. Planning Grants

Criterion #1: Program Alignment

FHWA will evaluate the alignment of the proposed Planning Grant activity with the purpose of PROTECT Discretionary Grant Program as described in 23 U.S.C. § 176(d)(3). Because there are four statutorily distinct categories of eligible Planning grant activities, FHWA will evaluate the program alignment of each planning grant application against the specific planning grant activity the applicant identified in the application.

For all Planning grant applications, FHWA will evaluate whether the application includes a description of how completion of the Planning Grant will contribute to the applicant's near- and long-term system resilience plans. For example, for a proposed grant for technical capacity building, FHWA will evaluate how the applicant will maintain the technical capacity it needs to assess the vulnerabilities of surface transportation assets and community response strategies, including the development of high-quality technical capacity building programs with supportive services to help train, place, and retain people with the technical capacity needed for the long-term. The planning activity should support multimodal transportation networks that enable all people to reach their desired destination safely, affordably, and with a comparable level of efficiency and ease. The need for the PROTECT Discretionary Grant Program Planning project should be of critical importance in supporting the continued operation or rapid recovery of crucial local, regional, or national surface transportation assets and facilities.

Resilience Improvement Plan: The application provides detailed information about how the planning project will:

- identify short- and long-range planning activities and investments with respect to the multimodal resilience of surface transportation;
- include input from Tribes or Federal Land managers as well as local governments; and
- include a systemic approach to transportation system resilience and critical needs including a risk-based assessment of vulnerabilities of transportation assets and systems to current and future weather events and natural disasters.

Resilience Planning, Predesign, Design, or Data Tools: The application:

- provides a detailed description that identifies the type and source of relevant climate data sets, information resources, and decision-support tools that will be utilized to inform the multimodal planning process;
- describes in detail how models and assessments will utilize data on past and future conditions and address critical needs;
- describes how the assessment will consider protective services offered by existing natural systems (for example flood protection offered by wetlands) and/or how the assessment will consider options for using nature-based solutions to provide protective services;
- provides a detailed plan of how the applicant will coordinate the project with other existing plans such as State and local hazard mitigation plans;
- if the planning project is to develop a tool: 1) identifies and describes in detail the disciplines that will utilize the tool and how the tool will be developed to apply easily

- to these disciplines (end users); and 2) demonstrates in detail how the data or tool format is most useful including a discussion about GIS applications or incorporation into currently used models; and
- if the planning project is to develop predesign or design elements: 1) describes methods for developing resilience solutions; 2) describes how nature-based solutions will be considered.

Technical Capacity Building: The application:

- provides a detailed description of the training programs the applicant intends to implement;
- includes a detailed assessment of current staff knowledge on climate change vulnerability and resilience and capability to utilize that knowledge with actions to strengthen current practices; and
- provides a detailed description of the applicant’s near- and long-term plan to ensure it maintains the technical capacity that will be developed with the use of PROTECT Planning funds including the development of high-quality technical training programs with support services, to help train, place, and retain people.

Evacuation Planning and Preparation: The application:

- documents potential future disasters or conditions that demonstrate the need for multimodal evacuation routes as part of community resilience;
- includes verifiable information about community growth (past and future), critical, needs, and anticipated future traffic volumes and accommodation of transit and active transportation modes;
- provides a detailed discussion of considerations that will be to current and future conditions in the facility design;
- explains in detail how the project will leverage planning information from State and local level government such as hazard mitigation and emergency management planning; and
- includes a detailed post-project description of how the Planning Grant will contribute to the applicant’s near- and long-term system resilience plans.

Criterion #2: Schedule and Budget

FHWA will rate the responsiveness to the Schedule and Budget criterion as follows:

- The Application presents a detailed schedule and budget and amount of funds for each major project activity, milestone, and deliverable.
- The application includes a detailed budget that shows the total project cost, including the amount requested from the PROTECT Discretionary grant program and all other funding sources and amounts. (Other funding sources, as appropriate, include Other Federal funds; State funds; Tribal funds; local funds; and other funds such as private funds. If the funding was received, please provide the date of award and how the funds have been or are expected to be used on the project.)
- The project schedule presented in the application includes the anticipated start and end dates for each activity, as well as a detailed post-Planning grant description of

- how the Planning Grant will contribute to short, intermediate, and long-term system resilience.
- The schedule and budget are feasible, reasonable, and commensurate with the work described in the application.

Criterion #3: Public Engagement, Partnerships and Collaboration

FHWA will rate the responsiveness to the Public Engagement, Partnerships, and Collaboration criterion, as follows:

- The application provides specific strategies and actions to be incorporated in the planning process to ensure meaningful public engagement, partnering, and collaboration.
- The planning process will engage a wide range of applicable partners and stakeholders and incorporates opportunities to for public collaboration. Example partners include community-based organizations, public agencies (e.g., local, regional, State, and Federal), and relevant sectors (e.g., emergency management, environmental, planning, floodplain management, health, housing and development, private).
- The application outlines an engagement process that will involve a range of relevant experts in diverse areas and demonstrate inclusion of disadvantaged populations or communities that have or will likely experience a disproportionate impact from a natural disaster or catastrophic event.
- The application demonstrates how input provided will be considered during the planning grant implementation process.

Criterion #4 Innovation

FHWA will rate the responsiveness to the Innovation criterion, as follows:

- The planning project employs innovative or novel partnerships, technologies, and techniques that will be used to analyze risks and risk reduction strategies; or
- The planning project analyzes the potential use of nature-based solutions and/or builds technical capacity for the use of nature-based solutions and access to nature; or
- The planning project utilizes partnerships that demonstrate potential best practices in cost-sharing and use of technical expertise for the best outcome of the project (for example, involvement of partners with expertise in nature-based solutions such as natural resource management agencies); or
- The planning project demonstrates and documents innovative techniques and best practices that other parts of the country can consider replicating.

Overall Planning Grant Application Rating

FHWA's First-level review team will assign an overall application merit rating using the following methodology:

Overall Merit Rating	Individual Criteria Ratings
Highly Recommended	<ul style="list-style-type: none"> • ‘High’ ratings on at least three [3] of four [4] criteria; and • ‘High’ or ‘Medium’ rating on Equity and Justice⁴⁰ (Indian Tribes are assumed ‘High’ for Equity and Justice⁴⁰); and • Zero ‘Non-Responsive’ ratings
Recommended	<ul style="list-style-type: none"> • At least three [3] ‘Medium’ or ‘High’ ratings; and • Zero ‘Non-Responsive’ ratings.
Not Recommended	<ul style="list-style-type: none"> • One or more ‘Non-Responsive’ ratings

FHWA FY 2022 and FY 2023 Planning Grant Priority Considerations

After completing the merit review, among projects of similar merit, FHWA will prioritize projects that demonstrate:

- Exceptional benefits under merit criteria #3 Public Engagement, Partnerships and Collaboration; or
- Strong need for funding; but for the award of a PROTECT Discretionary Grant Program Planning Grant, the applicant would not be able to begin or complete the activity. For State DOT applicants, this could be demonstrated by showing that the need exceeds the amount provided under the PROTECT Formula Program.

b. Resilience Improvements, Community Resilience and Evacuation Routes, and At-Risk Coastal Infrastructure Grants

FHWA will evaluate Resilience Grant applications using the following Merit Criteria for FY 2022 and FY 2023.

Criterion #1: Vulnerability and Risk

FHWA will evaluate the degree to which the application:

1. Describes in detail with verifiable underlying data and science-based information the relevant current or future weather events, natural disasters, or changing conditions that the project area is exposed to that the project will address (e.g., severe storms, flooding, drought, levee and dam failures, wildfire, rockslides, mudslides, sea level rise, extreme weather, including extreme temperatures, and earthquakes);
2. Assesses, in detail with verifiable data and information, each element, as applicable, of vulnerability - (2a) exposure, (2b) sensitivity, and (2c) adaptive capacity (see table below); and

3. Demonstrates that there is high risk to the transportation asset or system (risk is a function of the likelihood of negative impact and the consequence should the impact occur).

For Community Resilience and Evacuation Route grant applications, the application should address current and future vulnerabilities to an evacuation route because of future occurrence or recurrence of emergency events that are likely to occur in the geographic area in which the evacuation route is located; and projected changes in development patterns, demographics, and extreme weather events based on the best available evidence and analysis.

To assist applicants, the table below defines exposure, sensitivity, and adaptive capacity and provides instructions on the information applicants should address in the application.

Vulnerability Elements	
Element	Instructions
Exposure means the degree to which an asset or system is located in an area experiencing direct effects of climate change, extreme weather events, natural disasters, and changing conditions.	Describe how the project: (1) will address current or future weather events, natural disasters, or changing conditions that the project area is exposed to (e.g., severe storms, flooding, drought, levee and dam failures, wildfire, rockslides, mudslides, sea level rise, extreme weather, extreme temperature, earthquakes); and (2) will reduce the impacts, risks, and consequences of exposure.
Sensitivity means how an asset or system responds to, or is affected by, exposure to a climate-related or other natural hazard stressor including but not limited to flooding, landslides, lava and wildfires.	Describe how the project will seek to reduce the sensitivity of the asset or system to the stressors identified. This may include a description of how the project would improve the ability of the asset or system to reduce or avoid potential impacts from stressors. For example, sensitivity data and information could include thresholds (empirical or observed) to potential stressors. The sensitivity data could include the asset age or condition and vary with the applicable climate stressor thresholds.
Adaptive Capacity means the ability of a transportation asset or system to adjust, repair, or flexibly respond to damage caused by climate variability, extreme weather, or other natural disaster.	Describe how the project will improve the ability of the asset or system to withstand, adjust to, or respond to impacts. For example, an application could describe how raising a bridge and associated pedestrian, bicycle, and green infrastructure would allow for continued operation of the system during heavy precipitation events. Raising the bridge could also reduce travel time because of detour route use, which could be lengthy and is often a measure of asset adaptive capacity. Fast Recovery also utilizes efficient emergency response, inspection, and evacuation. A project utilizing nature-based solutions, such as restoration of natural dunes to protect from

Vulnerability Elements	
Element	Instructions
	wave damage, could improve the ability of the asset to recover more quickly and reduce loss of functionality and community impact.

Criterion #2: Criticality to Community

FHWA will evaluate criticality as follows:

1. The application demonstrates the critical need for the project, based on the current or future events the project will address. Critical need is defined as the importance of the project in supporting the continued operation or rapid recovery of crucial local, regional, or national surface transportation assets and facilities served by those assets in the community. Critical need could be demonstrated through indicators such as average daily traffic, evacuation needs, or freight volume.
2. The application identifies critical facilities and destinations that the project provides continued access to. Example facilities and destinations include homes, businesses hospitals and other medical or emergency service facilities, major employers, critical manufacturing centers, ports, intermodal facilities or nexus points, utilities, and Federal facilities.
3. The project is timely in addressing risks to the community. Consequences are severe if resilience improvements are not made in the near term.
4. The project is critical to supporting community functions (such as access for disadvantaged populations, economic activities, emergency operations during evacuations).

Criterion #3: Design Elements

FHWA will evaluate proposed project design elements to specifically address relevant current or future weather events, natural disasters, or changing conditions over the anticipated service life. Applications should identify the anticipated service life of the facility or asset and identify design element(s), as applicable to the affected mode(s) of transportation, to address current and future vulnerabilities over that service life. Applications should document the source of relevant evidence-based climate data, downscaled projections, and scenarios used or proposed for use as basis for climate resilience design measures or features. Applicants are strongly encouraged to use best-available climate data sets, information resources, and decision-support tools (including FHWA and other Federal resources) to assess the climate-related vulnerability and risk and to develop or deploy resilience solutions to address those risks over the anticipated infrastructure service life.

1. The application describes in detail how the anticipated service life of the facility or asset was determined.

2. The design elements will reduce current and future vulnerabilities and risks. The application identifies the design element that will address each current or future vulnerability identified under Criterion #1 up to the anticipated service life of the facility or asset. If the project is in pre-design or design, the application identifies and provides a detailed discussion about what methodology(ies) will be used to identify the measures or features to address the current and future vulnerabilities. If the project is post-design, the application provides a detailed description about how a determination was made that the design element identified above will reduce current and future vulnerabilities.
3. The project considers and uses, as appropriate, nature-based solutions. Examples of nature-based solutions include wetland buffers, marsh breakwaters, sea grass plantings, dune restoration, landscaping such as greenscaping, rain gardens and bioswales, riverbank protection such as vegetated erosion control or native material revetments and adding stream sinuosity.
4. The project will improve safety for all users of the transportation asset or system by reducing current and feature vulnerabilities. The applicant has assessed safety needs and how PROTECT Discretionary Grant funds would contribute to improving safety through the anticipated service life of the asset or system.
5. The application includes a detailed maintenance plan for the project describing how the funded design elements will be maintained for the anticipated life of the facility, in order to ensure they continue to reduce the vulnerabilities identified earlier. The plan identifies which entity will be responsible for maintaining the project, as well as estimated maintenance costs over the life of the project, and sources to fund those costs.

Visit <https://www.fhwa.dot.gov/environment/protect/discretionary> for a list of resources and tools to help assess vulnerabilities, identify critical assets, and assess the resilience of projects to climate change, extreme weather, and other natural hazards. The questions in the table below are provided to help applicants develop their response to the design elements criterion.

FHWA's evaluation of design elements as described herein as part of the review and selection of projects under this notice is not and should not be interpreted as FHWA approval or concurrence of final project design. The purpose of this criterion is to evaluate whether and to what degree an applicant is evaluating design elements to reduce future vulnerabilities. This criterion is intended to evaluate elements that would be considered during the design phase of the project. Approval of the final and specific design elements that will be used in the construction of the project will follow title 23 or 2 CFR part 200 requirements depending on the type of applicant.

Example Questions for Applicants to Consider in Developing their Response to the Design Elements Criterion
Can the facility be sited or relocated outside of an area with a current or projected future hazard or climate impact (e.g., 100-year flood, increasing flood return intervals)? Where relevant, does the project reduce impacts to floodplain function?
If applicable, is the project sized to accommodate increases in sea level? If yes, what sea level rise projection will be used and how will this be incorporated into project design?
Does the project take into account increased future stormwater flows, ex., the need for additional drainage infrastructure or upsized culverts, elevated bridges and approaches?
Will certain design elements increase ability of the asset to continue to serve its primary function, and/or support emergency evacuation and post disaster relief, during and after weather events and natural disasters? How?
Does the project add redundancy to the transportation system? And does this redundancy enhance emergency evacuations?
Will the project use a nature-based solution? Or explain why a nature-based solution would not be a solution. (e.g., wetland buffers, marsh breakwaters, reefs, sea grass plantings, dune restoration, adding stream sinuosity, etc.)
Does the project employ the use of innovative or novel technologies, such as improved roadway subgrades, heat-resistant pavement mixes, natural infrastructure or permeable pavement?

Criterion #4: Public Engagement, Partnerships and Collaboration

The application provides a detailed public engagement, partnerships and collaboration plan that either addresses each plan component (1) through (5) below or provides a detailed explanation why certain plan components are not applicable for the project.

1. How public engagement will be conducted demonstrating engagement of diverse input such as community-based organizations during project planning and consideration of how input provided will be considered during the project decision-making process;
2. Partnerships and collaboration with community stakeholders;
3. Partnerships and collaboration with other agencies (e.g., State, local, regional, Federal);
4. Partnerships and collaboration across relevant sectors (e.g., emergency management, environmental, planning, floodplain management, health, housing and development, private sector); and
5. For (1) through (4) above, as applicable, the roles of these entities in the planning, design, construction, and operation of the project.

Criterion #5: Equity and Justice⁴⁰

Applicants should demonstrate how meaningful public involvement⁶, inclusive of disadvantaged communities, will occur throughout a project's life cycle. Projects should demonstrate, to the extent possible, that outcomes should target at least 40 percent of benefits towards disadvantaged communities, including communities underserved by affordable transportation or overburdened. Applicants should address how project benefits will apply to disadvantaged communities to (1) reduce the impacts of emergency events, (2) improve access to critical community services, (3) connect Americans to good-paying jobs, (4) reduce current or potential burdens, and (5) improve access to resources and quality of life.

The application:

1. includes an equity assessment that provides a detailed discussion about whether and, if so, how the project will create proportional impacts and remove transportation related disparities to all populations in a project area;
2. demonstrates in detail how meaningful public engagement with disadvantaged communities will occur throughout a project's life cycle;
3. provides a detailed discussion about each project benefit 1-5 discussed under this criterion and how it is a benefit of the project or not;
4. demonstrates in detail that the outcome of the project targets no less than 40 percent of benefits 1-5 towards disadvantaged communities.

Applications from Indian Tribes are not required to provide information on equity and Justice⁴⁰. FHWA will consider project applications from Indian Tribes to inherently benefit a Justice⁴⁰ community and will rate them high for this criterion.

Applications should address equity and environmental justice, particularly for communities that have experienced disproportionate impacts from emergency events or from past resilience improvement activities. The [Climate and Economic Justice Screening Tool \(CEJST\)](#), a new tool by the White House Council on Environmental Quality (CEQ), aims to help Federal agencies identify disadvantaged communities as part of the Justice⁴⁰ Initiative. Applicants should use CEJST as the primary tool to identify disadvantaged communities (Justice 40 communities). For the purpose of assessing the components of project benefits and burdens, applicants should also use [DOT's transportation disadvantage tool](#).

Criterion #6: Climate Change and Sustainability

The application uses data-driven and evidence-based methods to demonstrate that the project will:

1. Significantly reduce greenhouse gas emissions in the transportation sector;
 - a. Utilizing fiscally responsible land use;

⁶ <https://www.transportation.gov/priorities/equity/promising-practices-meaningful-public-involvement-transportation-decision-making>

- b. Increasing the use of energy-efficient modes of transportation like transit, rail, and active transportation; transitioning to clean vehicles and fuels, including electrification; or
 - c. Incorporating carbon-reducing uses of the rights-of-way or other carbon reduction strategies.
- 2. Incorporate evidence-based climate resilience measures or features such as constructing or upgrading infrastructure using the Federal Flood Risk Management Standard and monitoring performance of climate resilience measures.
- 3. Reduce the lifecycle greenhouse gas emissions from the project material; such as by:
 - a. reducing the emissions from the manufacturing, installation, maintenance, and/or disposal of those materials; or
 - b. including incentives for low carbon materials in project procurement.
- 4. Address the disproportionate negative environmental impacts of transportation on disadvantaged communities such as considering the benefits and burdens a project may create, and what communities would be most affected; and
- 5. Avoid adverse environmental impacts to air or water quality, wetlands, and endangered species, such as through reduction in Clean Air Act criteria pollutants and greenhouse gases, improved stormwater management, or improved habitat connectivity.

Criterion #7: Schedule and Budget

FHWA will rate the responsiveness to the Schedule and Budget criterion as follows:

1. The application presents a detailed schedule and budget and amount of funds for each major project activity, milestone, and deliverable.
2. For the PROTECT Discretionary Grant Program, like the PROTECT Formula Program, grant funds can only be used for activities that are primarily for the purpose of resilience or inherently resilience related. The budget should detail the incremental cost of making transportation assets more resilient. Other project components that are not inherently resilience-focused should generally be funded from other sources, including other Title 23 programs. To the extent that the primary purpose of a project is to address resilience, it would be eligible to be fully funded (up to the applicable Federal share)
3. The application includes a detailed budget that shows the total project cost, including the amount requested from the PROTECT Discretionary Grant Program and all other funding sources and amounts. (Other funding sources, as appropriate, include other Federal funds; State funds; Tribal funds; local funds; and other funds such as private funds. If the funding was received, please provide the date of award and how the funds have been or are expected to be used on the project.)
4. The project schedule presented in the application includes the anticipated start and end dates for each major activity or milestone.
5. The schedule and budget are feasible, reasonable, and commensurate with the work described in the application.

Criterion # 8: Innovation

FHWA will rate the responsiveness to the Innovation criterion as follows:

1. The project employs innovative or novel partnerships, technologies, or techniques that will be used to mitigate risk of structural failure and/or increase reliability of the surface transportation asset throughout its anticipated service life.
2. The project uses nature-based solutions to improve resilience. Examples of nature-based solutions to manage stormwater include permeable pavement, stormwater harvest and reuse, and landscaping (greenspaces, rain gardens, bioswales, etc) to absorb and slow the flow of stormwater. These stormwater nature-based solutions reduce downstream flooding and filter pollutants. Nature-based solutions such as river training, bank protection, and riparian treatments, can be used in riverine environments near highways and rail to stabilize slopes, reduce erosion, and reduce flooding of transportation infrastructure. Additional examples of nature-based solutions include wetland buffers, marsh breakwaters, stormwater bioswales, sea grass plantings, dune restoration, and adding stream sinuosity.
3. The project utilizes partnerships that demonstrate potential best practices in cost-sharing and use of technical expertise for the best outcome of the project (for example, involvement of partners with expertise in nature-based solutions such as natural resource management agencies).
4. The project demonstrates and documents innovative techniques and best practices that other parts of the country can consider replicating.

Overall Merit Criteria Rating

FHWA’s first-level review team will assign an overall merit criteria rating on the following basis:

Overall Merit Rating	Individual Criteria Ratings
Highly Recommended	<ul style="list-style-type: none"> • ‘High’ ratings on at least six [6] of eight [8] criteria; and • ‘High’ or ‘Medium’ rating on Equity and Justice40 (Indian Tribes are assumed ‘High’ for Equity and Justice40); and • Zero ‘Non-Responsive’ ratings
Recommended	<ul style="list-style-type: none"> • At least five [5] ‘Medium’ or ‘High’ ratings, and • Zero ‘Non-Responsive’ ratings.

Not Recommended	<p>Fewer than five [5] ‘Medium’ or ‘High’ ratings or</p> <ul style="list-style-type: none"> • One or more ‘Non-Responsive’ ratings
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The Economic Analysis Review and Statutory Prioritization

Economic Analysis and Statutory Prioritization for Resilience Improvement, and Community Resilience and Evacuation Routes

FHWA will conduct an economic analysis for certain types of projects that receive an overall rating of Highly Recommended or Recommended, including for Resilience Improvement projects which are not on an applicable Resilience Improvement Plan under 23 U.S.C. § 176(e)(2), and Community Resilience and Evacuation Route projects that receive an overall rating of Highly Recommended or Recommended, FHWA will consider the costs and benefits of these projects seeking PROTECT Discretionary Grant Program funding in determining whether a project is cost effective. In addition, FHWA will consider: (1) the need to address the vulnerabilities of surface transportation assets of the eligible entity with a high risk or, and impacts associated with, failure because of the impacts of weather events, natural disasters, or changing conditions for Resilience Improvement projects; and (2) take into account current and future vulnerabilities to an evacuation route; and projected changes in development patterns, demographics, and extreme weather events based on the best available evidence and analysis for Community Resilience and Evacuation Route projects.

To the extent possible, FHWA will rely on the applicant’s submission of well-supported BCA analysis results described in the project narrative. FHWA acknowledges that some aspects of calculating resilience benefits are difficult to quantify (e.g., benefits associated with nature-based solutions or for documenting benefit of evacuation during emergency events). Applicants should nonetheless discuss these types of benefits qualitatively.

For Resilience Improvement projects which are not on the applicable Resilience Improvement Plan and Community Resilience and Evacuation Routes projects, FHWA will consider a project’s benefits as compared to its costs to determine whether a project is cost effective and assign an economic analysis rating. To the extent possible, FHWA will rely on quantitative, evidence-based, and data-supported analysis in this assessment. FHWA will also consider qualitative descriptions of benefits that are more difficult to quantify and/or value in monetary terms.

Based on FHWA’s assessment, FHWA will assign an economic analysis rating of high, medium-high, medium, medium-low, or low according to the following table:

Rating	Description
High	The project’s benefits will exceed its costs. with a benefit-cost ratio of at least 1.5

Rating	Description
Medium-High	The project's benefits will exceed its costs
Medium	The project's benefits are likely to exceed its costs
Medium-Low	The project's costs are likely to exceed its benefits
Low	The project's costs will exceed its benefits

Resilience Improvement projects that are not on the applicable Resilience Improvement Plan and receive an economic analysis rating of Medium, Medium-High, or High will receive a determination that the benefits of the eligible activity proposed to be carried out by an eligible entity exceed the cost of the activity under 23 U.S.C. § 176(d)(4)(A)(iii)(I)(aa).

Community Resilience and Evacuation Routes projects that receive an economic analysis rating of Medium, Medium-High, or High will receive a determination that the eligible activity is cost-effective after taking into account:

- current and future vulnerabilities to an evacuation route because of future occurrence or recurrence of emergency events that are likely to occur in the geographic area in which the evacuation route is located and
- projected changes in development patterns, demographics, and extreme weather events based on the best available evidence and analysis under 23 U.S.C. § 176(d)(4)(B)(iii).

Resilience Improvement projects will be given priority if they receive an economic analysis rating of Medium, Medium-High, or High and FHWA determines that there is a need to address the vulnerabilities because of the high risk of, or impacts associated with failure because of, the impacts of weather events, natural disasters, or changing conditions. However, projects that receive a rating of Medium-Low or Low may be selected for an award if the project demonstrates clear potential benefits to resiliency, connectivity, community engagement, quality of life for disadvantaged communities, particularly in geographically remote or less populated areas.

Resilience Improvement projects that are on the applicable Resilience Improvement Plan will be prioritized. Applicants should consult with their State DOT or MPO regarding applicable Resilience Improvement Plans.

FHWA FY 2022 and FY 2023 Priority Considerations for Resilience Improvements, Community Resilience and Evacuation Routes, and At-Risk Coastal Infrastructure Grants

After completing the merit review, among projects of similar merit, FHWA will prioritize projects that meet one or more of the following:

1. Exceptional benefits under merit criteria #5 Equity and Justice⁴⁰
2. Workforce Development, Job Quality, and Wealth Creation

Application reflects one or more of the following:

- Include project labor agreements;⁷
- Describe how the project will expand strong labor standards, including not only compliance with prevailing wage requirements but also non-construction labor provisions that are relevant to the project such as transit, railroad, and Buy America protections;
- Commit to registered apprenticeship positions and use apprentices on the funded project, sometimes called an apprenticeship utilization requirement (e.g., requiring that a percentage of all labor hours will be performed by registered apprentices);
- Include high-quality workforce development programs with supportive services to help train, place, and retain people in good-paying jobs or registered apprenticeship;
- Demonstrate clear utilization of local and economic hiring preferences that ensure workers on the project come from economically disadvantaged communities⁸;
- Track and publish aggregate workforce data, including information on demonstrating that employment opportunities are available to historically underserved workers in their communities;
- Identify training programs that are diverse, including pre-apprenticeship and apprenticeship readiness programs, and explain how individuals from these programs are considered for and hired for apprenticeship slots and other jobs on the project;

⁷ These agreements may include pre-hire collective bargaining agreements between unions and contractors that govern terms and conditions of employment for all workers on a construction project.

⁸ These preferences may include goals for contractors based on geographic areas, geographic areas defined by economic distress, or individual characteristics of workers that make them economically disadvantaged. Project sponsors ask contractors to report data on project work hours, disaggregated across the different groups covered in local and economic hiring preferences. Alternatively, the project applicant may have documented agreements or other policy or ordinance in place to hire from economically disadvantaged groups.

- Include Local inclusive economic development and entrepreneurship such as the utilization of DBE, Minority-owned Businesses, Women-owned Businesses, or 8(a) firms;
- Expand access to goods and job opportunities through new or improved freight access; or
- Describe a State/regional/local comprehensive plan to promote equal opportunity, including removing barriers to hire and preventing harassment on work sites, and ensure that plan demonstrates action to create an inclusive environment with a commitment to equal opportunity, including:
- Affirmative efforts to remove barriers to Equal Employment Opportunity (EEO) above and beyond complying with Federal law and proactive partnerships with the U.S. Department of Labor’s (DOL) Office of Federal Contract Compliance Programs (OFCCP) to promote compliance with the requirements of E.O.11246, EEO;
- No discrimination in the use of criminal background screens and taking affirmative steps to recruit and include those with prior convictions, in accordance with the Fair Chance Act and equal opportunity requirements;
- Efforts to prevent harassment based on race, color, religion, sex, sexual orientation, gender identity, ability, and national origin;
- The inclusion of training on anti-harassment and third-party reporting procedures, and robust anti-retaliation measures, covering employees and contractors.

3. Construction Readiness

Priority may be given to a project that is post-design with incorporation of evidence-based climate change measures and features to address future vulnerabilities. Projects should be ready to proceed to construction within 10 months of selection to receive a PROTECT Discretionary Grant Program grant. FY 2022 funds may be prioritized for construction ready projects because of the need to be obligated before the end of 2025.

4. Funding Needs

FHWA will assess whether, but for the award of a PROTECT Discretionary Grant Program Resilience Grant, the applicant would not be able to begin or complete the activity. For State DOT applicants, this could be demonstrated by showing that the need exceeds the amount provided under the PROTECT Formula Program.

2. Review and Selection Process

FHWA will conduct an application intake and eligibility review by providing an initial eligibility screening based on the statutory eligibility criteria in Section C. Only eligible projects will be evaluated against the Merit Criteria in Section E.

The PROTECT Discretionary Grant Program application evaluation process consists of (1) a technical review, economic analysis review with statutory prioritization, and (2) an FHWA and the Office of the Secretary (OST) Senior Review.

The Technical Review

The evaluation of eligible applications will be conducted by a Technical Review Team who may consist of individuals from: (1) FHWA Headquarters (HQ) and division offices; (2) Federal Transit Administration; (3) Maritime Administration; and (4) OST. The Technical Review Team will evaluate each eligible application against the Merit Criteria in section E.1. and assign an overall application rating.

Planning Grant Applications. After assigning an overall rating to each Planning grant application, the Technical Review Team will evaluate and prepare a narrative on each application's responsiveness to FHWA Priority Considerations.

Resilience Grants. After assigning an overall rating to each Resilience Improvement and Community Resilience and Evacuation Routes grant application, the Technical Review Team will evaluate and prepare a narrative on each application's responsiveness to FHWA Priority Considerations.

The Economic Analysis Review

The economic analysis evaluation of Highly Recommended and Recommended Resilience Improvement and Community Resilience and Evacuation Route applications will be conducted by the Economic Analysis Review Team. The Economic Analysis Review Team may consist of individuals from: (1) FHWA Office of Transportation Policy Studies; (2) FHWA Resource Center; (3) other FHWA HQs and division offices; (4) and OST. The Economic Analysis Team will assess the benefit-cost analysis of Community Resilience and Evacuation Route projects, and Resilience Improvement projects not on the applicable Resilience Improvement Plan.

Projects that receive a rating of Medium-Low or Low may be selected for an award if the project demonstrates clear potential benefits to resilience, connectivity, community engagement, quality of life for economically disadvantaged communities, particularly in geographically remote or rural areas.

Applications Recommended for Consideration by the FHWA Senior Review Team (SRT)

The Technical Review Team will send to the FHWA SRT the overall project rating for each eligible Planning Grant and the evaluation of responsiveness to FHWA Priority Considerations. For the Resilience Improvement, and Community Resilience and Evacuation Route grant applications, the Technical Review Team will send to the FHWA SRT the Highly Recommended and Recommended projects that meet the Statutory Priority Criteria, the results of the economic analysis review, and the evaluation of responsiveness to FHWA Priority Considerations.

For the At-Risk Coastal Infrastructure applications, the Technical Review Team will send to the FHWA SRT the Highly Recommended and Recommended projects and the evaluation of responsiveness to FHWA Priority Considerations.

FHWA Senior Review Team Process and Project Selection

The FHWA SRT consists of senior FHWA officials who have been requested to serve by the FHWA Administrator. The SRT, with the FHWA Administrator's participation in the review process, advises the FHWA Administrator which projects the FHWA Administrator should select for funding.

Planning Grants: FHWA SRT will determine which Highly Recommended Planning projects to advance to the Administrator. FHWA SRT may also recommend for selection a Planning project that is rated Recommended over a Highly Recommended project. The SRT may recommend a Planning grant project that is rated Recommended over a Highly Recommended project, if the Recommended project is responsive to the Priority Considerations.

Resilience Grants: The FHWA SRT will determine which Highly Recommended Resilience Grant projects to advance to the Administrator. FHWA SRT may also recommend for selection a Resilience Grant project that is rated Recommended over a Highly Recommended project. The SRT may recommend a Resilience grant project that is rated Recommended over a Highly Recommended project if the Recommended project is particularly responsive to the Priority Considerations.

FHWA will use not less than 2 percent for grants to Indian Tribes. The FHWA SRT may recommend for funding all Highly Recommended applications under the set-aside and then recommend for funding additional Recommended applications up to the minimum amount. The FHWA reserves the flexibility to increase the minimum Tribal set-aside to fund all Highly Recommended Tribal projects and additional Recommended Tribal projects selected to receive funding. When selecting among applications, the FHWA SRT may consider a project's merit criteria ratings as well as responsiveness to the Priority Considerations. Any remaining Recommended applications will be considered for funding with the remaining non-Tribal applicants under review by the SRT.

FHWA Administrator will determine which Highly Recommended Planning Grant and Resilience Grant projects, and any Recommended Planning Grant and Resilience Grant projects, after considering the FHWA SRT recommendations including the responsiveness to FHWA Priority Considerations. The FHWA Administrator may consider options for reduced awards and ability to award certain eligible applications under any of the four grant types. To the extent possible, all applications will be considered for any of the four grant programs regardless of which grant is applied for.

The FHWA Administrator makes final project selections that best address the PROTECT Discretionary Grant Program goals for Planning, Resilience Improvements, Community Resilience and Evacuation Routes, and At-Risk Coastal Infrastructure Grants, Secretarial Statutory Selection Priorities, and FHWA Priority Considerations.

3. Additional Information

a. FHWA may, during the selection process, enter into discussions with an applicant that may include mutually agreeing upon a lesser amount of a potential award than originally requested in the application, if necessary, because of the quantity, size and scope of the applications received in response to this notice and the results of the application review process. Discussions may include scalable project options as described under Section D.7.a. of this notice.

b. Prior to award, each selected applicant will be subject to a risk assessment as required by 2 CFR 200.206. FHWA must review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)). An applicant may review information in FAPIIS and comment on any information about itself that a Federal awarding agency previously entered. FHWA will consider comments by the applicant, in addition to the other information in FAPIIS, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants.

SECTION F – FEDERAL AWARD ADMINISTRATION INFORMATION

1. FEDERAL AWARD NOTICES

Following the evaluation outlined in Section E, the Secretary will announce awarded projects by posting a list of selected projects at <https://www.fhwa.dot.gov/environment/protect/discretionary>. Notice of selection is not authorization to begin performance or to incur costs for the proposed project. Following that announcement, FHWA will contact the point of contact listed in the SF-424 to initiate negotiation of the project agreement for authorization. Recipients of PROTECT Discretionary Grant Program grant awards will not receive lump-sum cash disbursements at the time of award announcement or obligation of funds. Instead, FHWA will reimburse PROTECT Discretionary Grant Program funds to recipients only after a project agreement has been executed, allowable expenses are incurred, and valid requests for reimbursement are submitted. Unless authorized by FHWA in writing after announcement of FY 2022 and FY 2023 PROTECT Discretionary Grant Program awards, any costs that a recipient incurs before FHWA executes a project agreement for that recipient's project are ineligible for reimbursement and are ineligible match for cost share requirements.

2. ADMINISTRATIVE AND NATIONAL POLICY REQUIREMENTS

All awards will be administered pursuant to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards found in 2 CFR Part 200, as adopted by FHWA at 2 CFR Part 1201. Applicable Federal laws, rules, and regulations set forth in title 23, U.S.C., and title 23 of the CFR, shall apply to awards provided under this program. In connection with any program or activity conducted with or benefiting from funds awarded under this notice, recipients of funds must comply with all applicable requirements of Federal law, including, without limitation, the Constitution of the United States; the conditions of performance, non-discrimination requirements, and other assurances made applicable to the

award of funds in accordance with regulations of DOT and FHWA; and applicable Federal financial assistance and contracting principles promulgated by the Office of Management and Budget. In complying with these requirements, recipients, in particular, must ensure that no concession agreements are denied, or other contracting decisions made on the basis of speech or other activities protected by the First Amendment. If FHWA determines that a recipient has failed to comply with applicable Federal requirements, FHWA may terminate the award of funds and disallow previously incurred costs, requiring the recipient to reimburse any expended award funds.

In particular, E.O. 14005 directs the Executive Branch Departments and agencies to maximize the use of goods, products, and materials produced in, and services offered in, the United States through the terms and conditions of Federal financial assistance awards. If selected for an award, grant recipients must be prepared to demonstrate how they will maximize the use of domestic goods, products, and materials in constructing their project. Any grant projects involving vehicle acquisition must involve only vehicles that comply with applicable Federal Motor Vehicle Safety Standards (FMVSS) and Federal Motor Carriers Safety Regulations (FMCSR), or vehicles that are exempt from FMVSS or FMCSR in a manner that allows for the legal acquisition and deployment of the vehicle or vehicles.

A. Program Requirements

i. Critical Infrastructure Security and Resilience

It is the policy of the United States to strengthen the security and resilience of its critical infrastructure against both physical and cyber threats. Each applicant selected for Federal funding under this notice must demonstrate, prior to the signing of the grant agreement, effort to consider and address physical and cyber security risks relevant to the transportation mode and type and scale of the project. Projects that have not appropriately considered and addressed physical and cyber security and resilience in their planning, design, and project oversight, as determined by FHWA and the U.S. Department of Homeland Security, will be required to do so before receiving funds for construction, consistent with Presidential Policy Directive 21 - Critical Infrastructure Security and Resilience and the National Security Presidential Improving Cybersecurity for Critical Infrastructure Control Systems.”

ii. Domestic Preference Requirements

As expressed in E.O. 14005, Ensuring the Future Is Made in All of America by All of America’s Workers (86 FR 7475), the executive branch should, consistent with law, maximize the use of goods, products, and materials produced in, and services offered in, the United States. Funds made available under this notice are subject to the domestic preference requirements at Pub. L. No 117-58, div. G §§ 70901–70927. FHWA expects all applicants to comply with those requirements.

The applicability of Federal requirements to a project may be affected by the scope of the National Environmental Policy Act (NEPA) reviews for that project. For example, under 23 U.S.C. § 313(g), Buy America requirements apply to all contracts that are eligible for assistance

under title 23, U.S.C., and are carried out within the scope of the NEPA finding, determination, or decision regardless of the funding source of such contracts if at least one contract is funded with Title 23 funds. As another example, Americans with Disabilities Act (ADA) regulations apply to all projects funded under this Notice.

iii. Civil Rights and Title VI

As a condition of a grant award, grant recipients should demonstrate that the recipient has a plan for compliance with civil rights obligations and nondiscrimination laws, including Title VI of the Civil Rights Act of 1964 and implementing regulations (49 CFR § 21), the ADA, and Section 504 of the Rehabilitation Act, all other civil rights requirements, and accompanying regulations. This should include a current Title VI Plan, completed Community Participation Plan, and a plan to address any legacy infrastructure or facilities that are not compliant with ADA standards. FHWA Office of Civil Rights may work with awarded grant recipients to ensure full compliance with Federal civil rights requirements.

iv. Federal Contract Compliance

As a condition of grant award and consistent with E.O. 11246, EEO (30 FR 12319, and as amended), all federally-assisted contractors are required to make good faith efforts to meet the goals of 6.9 percent of construction project hours being performed by women, in addition to goals that vary based on geography for construction work hours and for work being performed by people of color. Under Section 503 of the Rehabilitation Act and its implementing regulations, affirmative action obligations for certain contractors include an aspirational employment goal of 7 percent workers with disabilities.

The DOL's OFCCP is charged with enforcing E.O. 11246, Section 503 of the Rehabilitation Act of 1973, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974. OFCCP has a Mega Construction Project Program through which it engages with project sponsors as early as the design phase to help promote compliance with non-discrimination and affirmative action obligations. The OFCCP will identify projects that receive an award under this notice and are required to participate in OFCCP's Mega Construction Project Program from a wide range of federally-assisted projects over which OFCCP has jurisdiction and that have a project cost above \$35 million. Additional information on how OFCCP makes their selections for participation in the Mega Construction Project Program is outlined under "Scheduling" on DOL's Website: <https://www.dol.gov/agencies/ofccp/faqs/construction-compliance>.

v. Climate Change and Environmental Justice

Each applicant selected for PROTECT grant funding must demonstrate effort to consider climate change and environmental justice impacts. Projects that have not sufficiently considered climate change and environmental justice in their planning, as determined by FHWA, will be required to do so before receiving funds, consistent with E.O. 14008, Tackling the Climate Crisis at Home and Abroad (86 FR 7619).

vi. Equity and Barriers to Opportunity.

Each applicant selected for PROTECT grant funding must demonstrate effort to improve equity and reduce barriers to opportunity. Projects that have not sufficiently considered equity and barriers to opportunity in their planning, as determined by FHWA, will be required to do so before receiving funds, consistent with E.O. 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (86 FR 7009).

vii. Labor and Workforce

Each applicant selected for PROTECT grant funding must demonstrate, to the full extent possible consistent with the law, an effort to create good-paying jobs with the free and fair choice to join a union and incorporation of high labor standards. To the extent that applicants have not sufficiently considered job quality and labor rights in their planning, as determined by DOL, the applicants will be required to do so before receiving funds, consistent with E.O. 14025, Worker Organizing and Empowerment (86 FR 22829), and E.O. 14052, Implementation of the Infrastructure Investment and Jobs Act (86 FR 64335).

3. REPORTING

a. Progress Reporting on Grant Activities

Each applicant selected for PROTECT Discretionary Grant Program grant funding must submit semi-annual progress reports and Federal Financial Reports (SF-425) to monitor project progress and ensure accountability and financial transparency in the PROTECT Discretionary Grant Program.

b. Performance and Program Evaluation

As a condition of grant award, grant recipients may be required to participate in an evaluation undertaken by FHWA or another agency or partner. The evaluation may take different forms such as an implementation assessment across grant recipients, an impact and/or outcomes analysis of all or selected sites within or across grant recipients, or a benefit/cost analysis or assessment of return on investment. FHWA may require applicants to collect data elements to aid the evaluation and/or use information available through other reporting. As a part of the evaluation, as a condition of award, grant recipients must agree to: (1) make records available to the evaluation contractor or FHWA staff; (2) provide access to program records, and any other relevant documents to calculate costs and benefits; (3) in the case of an impact analysis, facilitate the access to relevant information as requested; (4) access to right-of-way to contractor or FHWA staff for long-term data and observation collection; and (5) follow evaluation procedures as specified by the evaluation contractor or FHWA staff.

FHWA is required (See 23 U.S.C. 176(f)(1)(B)) to establish impact and effectiveness metrics and evaluation procedures for the PROTECT Discretionary Grant Program. FHWA will select a representative sample of projects to evaluate their effectiveness and impact. Projects selected as part of this representative sample may have additional reporting requirements. FHWA will

publish the planned metrics in the Federal Register for public comment. These eventual metrics will not affect award decisions and should not impact applicant's proposals.

Recipients and subrecipients are also encouraged to incorporate program evaluation including associated data collection activities from the outset of their program design and implementation to meaningfully document and measure their progress towards meeting an agency priority goal(s). Title I of the Foundations for Evidence-Based Policymaking Act of 2018 (Evidence Act), Pub. L. No. 115-435 (2019) urges Federal awarding agencies and Federal assistance recipients and subrecipients to use program evaluation as a critical tool to learn, to improve equitable delivery, and to elevate program service and delivery across the program lifecycle. Evaluation means "an assessment using systematic data collection and analysis of one or more programs, policies, and organizations intended to assess their effectiveness and efficiency." 5 U.S.C. § 311. Credible program evaluation activities are implemented with relevance and utility, rigor, independence and objectivity, transparency, and ethics (OMB Circular A-11, Part 6 Section 290).

For grant recipients receiving an award, evaluation costs are allowable costs (either as direct or indirect), unless prohibited by statute or regulation, and such costs may include the personnel and equipment needed for data infrastructure and expertise in data analysis, performance, and evaluation. (2 CFR Part 200).

c. PROTECT Discretionary Grant Program Project Specific Reporting Requirements

Each applicant selected for PROTECT Discretionary Grant Program grant funding must collect and report to FHWA information on the project's performance based on performance indicators FHWA identifies related to program goals (e.g., increase resiliency, improve evacuation routes, strengthen at-risk coastal infrastructure project) and other information as requested by FHWA. Performance indicators should include measurable goals or targets that FHWA will use internally to determine whether the project meets program goals, and grant funds achieve the intended long-term outcomes of the PROTECT Discretionary Grant Program. FHWA will work with the grant recipient to establish a recommended two to four performance measures that enable FHWA to measure and evaluate the outcomes of the individual grant, relative to the program goals (identified in Section E.1.). Performance reporting continues for several years after project construction is completed. Monitoring and measurement costs can be included in project budgets.

d. Reporting of Matters Related to Recipient Integrity and Performance

If the total value of a selected applicant's currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then the applicant during that period of time must maintain the currency of information reported to the SAM that is made available in the designated integrity and performance system (currently FAPIIS) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. § 2313). As required by section 3010 of Public Law 111-212, all information posted

in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

e. Other

FHWA reserves the right to request additional information, if deemed needed, to better understand the status of the project. The successful applicant will provide additional financial reporting beyond the semi-annual reporting, if such statements are necessary to address FHWA's Stewardship and Oversight responsibility of the funds. The successful applicant also agrees to allow periodic project inspections and FHWA will provide notice for such inspections.

SECTION G – FEDERAL AWARDING AGENCY CONTACTS

For questions concerning this NOFO and the PROTECT Discretionary Grant Program, please contact:

Robert Miller
Agreement Officer
Office of Acquisition and Grants Management
Federal Highway Administration
U.S. Department of Transportation
1200 New Jersey Ave., SE.
Washington, DC 20590
Email: PROTECTdiscretionary@dot.gov (preferred)
Phone: (202) 366-9167

Alternate:

Robin Hobbs
Agreement Officer/Team Leader
Office of Acquisition and Grants Management
Federal Highway Administration
U.S. Department of Transportation
1200 New Jersey Ave., SE.
Washington, DC 20590
Email: PROTECTdiscretionary@dot.gov (preferred)
Phone: (202) 366-4004
A TDD is available for individuals who are deaf or hard of hearing at (202) 366-3993.

Office hours are from 7:30 a.m. to 4:00 p.m., Eastern Time, Monday through Friday, except Federal holidays.

SECTION H – OTHER INFORMATION

1. Protection of Confidential Business Information.

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the applicant submits information that the applicant considers to be a trade secret or confidential commercial or financial information, the applicant must provide that information in a separate document, which the applicant may cross-reference from the application narrative or other portions of the application. For the separate document containing confidential information, the applicant must do the following: (1) State on the cover of that document that it "Contains Confidential Business Information (CBI)"; (2) mark each page that contains confidential information with "CBI"; (3) highlight or otherwise denote the confidential content on each page; and (4) at the end of the document, explain how disclosure of the confidential information would cause substantial competitive harm. FHWA will protect confidential information complying with these requirements to the extent required under applicable law. If FHWA receives a Freedom of Information Act (FOIA) request for the information that the applicant has marked in accordance with this section, FHWA will follow the procedures described in its FOIA regulations at 49 CFR 7.29. Only information that is in the separate document, marked in accordance with this section, and ultimately determined to be confidential under § 7.29 will be exempt from disclosure under FOIA.

2. Publication/Sharing of Application Information.

Following the completion of the selection process and announcement of awards, FHWA may publish a list of all applications received along with the names of the applicant organizations and funding amounts requested. Except for the information properly marked as described in Section H.1., FHWA may make application narratives publicly available or share application information within FHWA or with other Federal agencies if FHWA determines that sharing is relevant to the respective program's objectives.

3. FHWA Feedback on Applications

Debriefs by FHWA are available to applicants not selected for award to receive information about the evaluation of their application.