

# 119<sup>th</sup> Congress—Federal Priorities: Multimodal Challenges



**TxDOT Government Affairs Division**

## SUMMARY

The Texas Department of Transportation (TxDOT) appreciates the opportunity to provide input on transportation policies for consideration by the 119th United States Congress. As a recognized leader among state departments of transportation, TxDOT looks forward to addressing the shared goal of, among others, addressing obstacles and unnecessary bureaucratic decisions and requirements, resulting in challenges to the transportation sector and to TxDOT's mission: *Connecting you with Texas*. Below are key items and policy priorities related to the aviation, bicycle/pedestrians, public transit, rail, and maritime modes of transportation for consideration as Congress develops a surface transportation reauthorization bill and other transportation-related legislation.

## Address Multimodal Challenges

### Aviation

- Provide administrative funding and resources for programs outside of the normal State Block Grant Program (SBGP).
- Ensure the SBGP's Memorandum of Understanding with the Federal Aviation Administration (FAA) is implemented in accordance with the law.
- Establish an active role for states in developing the advanced air mobility/unmanned aerial systems (AAM/UAS) federal landscape.

### Bike/Pedestrian

- Maintain availability of TA funds for program administration and restore flexibility in the use of these funds.
- Provide flexibility to move funds between rural and urban areas for obligation following the results of a competitive call for projects.
- Extend the period of availability of TA Set-Aside funds to five years.

### Public Transit

- Increase efficiency and funding for rural formula programs.
- Streamline the Federal Transit Administration's (FTA) grant approval processes.
- Reduce and consolidate federal discretionary grant opportunities.

### Rail

- Streamline rail funding for states by prioritizing formula programs over discretionary grants.
- Urge the Federal Railroad Administration (FRA) to work with states as partners in its safety goals.

### Maritime

- Provide appropriations from the US Army Corps of Engineers' (Corps) construction account for the Brazos River Floodgates and Colorado River Locks, as authorized in the Water Resources Development Act (WRDA) of 2020.
- Continue annual funding for the Corps' Texas navigation construction projects and feasibility studies to completion.
- Support an increased Corps maintenance dredging budget for the Gulf Intracoastal Waterway (GIWW).
- Increase the Corps budget for additional maintenance and expansion of GIWW fleet and mooring locations.
- Provide additional funding for US Coast Guard (USCG) Vessel Traffic Service (VTS) and Aids to Navigation (ATONs), current velocity meters, and bridge cameras for navigation safety and security.

## Aviation

### ***Provide for administrative funding and resources for programs outside of the normal State Block Grant Program (SBGP).***

For block grant states, who are being tasked with administering most of the federal program for general aviation airports, TxDOT recommends any new program outside of the Airport Improvement Program (AIP), the long-standing airports grant program, include administrative funding commensurate with funds allocated to the FAA.

TxDOT also recommends that the process to draw down on these funds be made easier and streamlined for states. Though the 2023 FAA Reauthorization Act included administrative funding to administer Airport Improvement Grants, newly created under the IIJA and separate from the AIP, the process to draw down those funds has been cumbersome. Employees must keep track of their time spent on work related to the administrative portion of IIJA projects, and this time must be recorded not only on their traditional timesheet but also separately, to track the specific task performed as FAA requires. TxDOT recommends instead that the FAA allow TxDOT to be reimbursed based on a percentage of prior monthly IIJA program expenditures, or a percentage calculated based on TxDOT's administrative expenditures to manage the AIP program.

### ***State Block Grant Memorandum of Understanding with the FAA.***

Following ongoing discussions between the block grant states and the FAA that lasted for more than a year, a Memorandum of Understanding (MOU) was signed between the two parties in May of 2024. Language in the MOU was negotiated meticulously and intentionally, and TxDOT is concerned that in the months after the MOU was signed, the FAA is not adhering to what was agreed upon. TxDOT recommends that the MOU be implemented in accordance with the 2023 FAA Reauthorization Act, Section 720 (a-c).

### ***Ensure states have an active role in developing the AAM/UAS federal landscape.***

State programs for AAM/UAS are already underway, including a robust program in Texas. As the federal government continues to develop frameworks and guidance for this technology, it is critical that states have a seat at the table to make sure any federal regulations do not adversely affect existing programs or place undue burdens on states. TxDOT recommends that Congress amend the 2023 FAA Reauthorization Act language establishing the Unmanned and Autonomous Flight Advisory Committee to require an additional member to be a state aviation director, or designated subject matter expert, from a block grant state with at least 150 general aviation airports with a categorization of Basic or higher within the most recent National Plan for Integrated Airport Systems.

## Bike/Pedestrian

### ***Maintain availability of TA funds for program administration and return to flexibility in the use of these funds.***

Prior to the Infrastructure Investment and Jobs Act (IIJA) state DOTs were able to transfer up to 50 percent of TA funds to other core programs, such as the National Highway Performance Program, the Highway Safety Improvement Program, and others. TxDOT requests that in the next surface transportation reauthorization bill Congress again provide state DOTs with the ability to transfer 50 percent or more of their TA funds. State DOTs are best situated to understand the infrastructure needs of their states and to allocate federal funds where most needed.

The IIJA allows states to use up to 5% of their available TA funds for staff and contract support to administer the program and assist applicants to successfully access the program. TxDOT recommends this availability be maintained for states. This set-aside enables TxDOT to effectively staff and administer the program, assist applicants to successfully apply for funds, and, once awarded funds, assist applicants with project implementation reducing the amount of time between project selection and the obligation of funds. This is critical considering the high demand for these projects, amount of TA funds suballocated to rural communities with fewer resources to apply and implement projects, and the current requirement that TA funds be obligated within a four-year window (three years plus the year of apportionment).

***Provide flexibility to move funds between rural and urban areas for obligation following the results of a competitive call for projects.***

Following four successive calls for projects (2015, 2017, 2019, 2021), identifying viable, constructible projects in communities under 5,000 in population (rural) has been a problem to the point of a potential risk of lapsing funds, ameliorated by the availability of technical assistance and local match assistance provided by the state. Just the opposite is true for projects in communities between 5,000 and 200,000 in population (urban) where TxDOT continually sees project demand far exceed available funding. Current program rules prohibit the movement of funds between these population categories. State-level flexibility to move funds between suballocated population categories, following the required competitive call for projects in each, would allow for the better use of federal funds.

***Extend the period of availability of Transportation Alternative Set-Aside (TA) funds to five years.***

While state DOTs are working to provide technical assistance to project sponsors, obligation of federal funds within the current four-year window (three years plus the year of authorization) will remain a challenge for states with large populations, especially for rural populations. Allowing more time to develop state-local agreements, procure professional services, acquire right-of-way, and develop projects in compliance with state and federal requirements would allow project sponsors to address any hurdles and successfully complete projects more easily within the limited period of availability.

## **Public Transit**

***Increase efficiency and funding for rural formula programs and ensure fair allocation of funds.***

TxDOT supports parity between urban and rural formula funding, which can occur through reducing the per capita funding difference that currently exists between the two formula programs. Currently, the section 5307 (Urbanized Area Formula) program per capita funding is 2.2 times greater than the rural per capita amount. TxDOT estimates that, over time, sequential federal authorizations in-line with prior IIJA increases of approximately 25% would bring the rural area formula per capita funding closer to parity with the urbanized area program.

Another example is that ***Texas receives \$0.84 per capita annually under the section 5339 program, the least amount of any state, while Rhode Island receives \$40.74 per capita annually***, the highest of any state. This is a remarkable disparity and disservice to Texans who rely on critical bus service in our rural communities and must be remedied in the upcoming reauthorization bill. Otherwise, Texans will spend another five years subsidizing bus service in Rhode Island and other states. The same streamlining and consolidating approach are recommended for the Enhanced Mobility of Seniors & Individuals with Disabilities program (section 5310). The objectives from each of these programs could be added to the 5311 and 5307 program objectives.

TxDOT also recommends that programs be streamlined and consolidated to reduce the administrative burden on states. Specifically, the Bus and Bus Facilities formula program (section 5339) is recommended for consolidation into the rural and urban formula programs, and that the entire revised amount be distributed via the Formula Grants for Rural Areas program (section 5311) and the Urban Area Formalized Grants program (section 5307) allocation criteria.

***Streamline the federal transit grant requirements and approval processes.***

The application process for federal formula grants, including sections 5310, 5311, and 5339, needs streamlining. Current data requirements are extraneous and increase the amount of staff time and labor in the application process (for both TxDOT and FTA). We recommend the following:

- Eliminate the requirement to provide data on useful life and individual vehicle data for state formula grants. This requirement poses a significant administrative burden in a state the size of Texas, and it is our understanding that FTA does not use the required vehicle information strategically.
- Eliminate the categories of “traditional” and “non-traditional” within the section 5310 program application, which would allow flexibility in using grant funds to better fit transit needs across the state as well as improve efficiency in the grant process.

- Allow the FTA regional offices to approve any transfer of section 5310 funds between the urban and rural areas to expedite the grant application approval process.
- Consolidate grant application scopes and activity line items (ALIs) to be more general and reduce or eliminate some of the required ALI extensions. TxDOT also recommends allowing ALIs within the same scope already included in the federal grant to be added via revision versus an amendment (which is more burdensome).

***Extend the period of availability of each rural formula grant by two years.***

TxDOT recommends extending the period of availability for each of the rural formula grant programs, including the section 5310 program, the section 5311 program, and the section 5339 program, by two years. This will allow flexibility in spending the funds, especially for programming capital projects, and reduce the need for revisions/amendments to grant applications. The number of capital projects in the state of Texas has increased over the years and TxDOT has been limited in our ability to use certain federally approved grants for these projects due to limits on the period of availability.

***Reduce and consolidate federal discretionary grant opportunities.***

To the extent discretionary grant programs are reauthorized for the FTA, instead of many small-scale or boutique grant funding opportunities, consider consolidating these into larger packages. The timing of grant opportunities should also be reviewed to maximize applicant planning processes. In recent years, the timing of discretionary opportunities has been erratic, with some project selections from a previous fiscal year occurring just before the announcement of a new opportunity.

## Rail

***Streamline rail funding for states by prioritizing formula programs over discretionary grants.***

Discretionary grants for planning are of low value for states with ample planning funds. Other federal formula programs like State Planning & Research (SPR) offer benefits to states that discretionary grants do not, including:

- Allowing the use of toll development credits as a match,
- A faster timeline, unlike discretionary grants which can be delayed by award notifications and grant agreements,
- Lower administrative burdens for states, as formula funds are spread out over a larger total funding profile. Small discretionary planning awards are often not worth the administrative time and application costs.

For the issue of highway-rail grade crossings specifically, TxDOT recommends that the FRA and FHWA spend six months, and hold at least two national meetings, to develop a nationwide grade separation candidate evaluation. Once this is complete, use this strategy to make awards and remove most of the federal oversight. State DOTs should be trusted to navigate the program and any issues, as added layers of federal oversight have costs that are often unseen. Further, TxDOT suggests that FRA Rail Crossing Elimination funds be distributed by formula based on the number of rail crossings that need improvement within each state.

***Urge the FRA to work with states as partners in its safety goals.***

- TxDOT recommends requiring the FRA to allow federally certified bridge inspectors working for states to fulfil their safety mission of investigating and documenting rail bridge deficiencies. A state inspector is designated by the state and qualified by the FRA under the provision in 49 CFR Part 212. However, the FRA currently does not allow state rail inspectors the authority/ability to inspect bridges, despite these inspectors being trained and certified to handle rail bridge inspections. State inspectors are not authorized to conduct investigative and surveillance activities, or request bridge management material from the railroads, under the provisions of Part 237. The state is therefore unable to cite a railroad for a deficient bridge or even send the FRA a 96 Report on bridges, which is used by FRA inspectors to document deficiencies. In Texas, this is a safety issue: Texas inspectors have taken a plethora of photos of poor and decaying bridge conditions, with no remedy to ensure repairs.
  - TxDOT recommends legislative language requiring that when the FRA enters into an agreement with the state (authority) to conduct rail inspections, it must include bridge inspections, if requested by the state.

- TxDOT believes that state safety disciplines need to be protected and recognized for the critical role they play in the FRA's safety program. The FRA asserts that it is supportive of states' safety programs and views them as an important part of the safety oversight inspection task force. However, the FRA's posture and actions towards state programs and personnel are frequently negative or even hostile. For example, in October 2024, TxDOT was informed that our state rail inspectors would no longer be permitted to inspect containers at the shippers point of origin. Fortunately, this issue was quickly resolved when Congressional staff intervened on TxDOT's behalf and explained the results of such a mandate; however, this is indicative of a lack of clear communication and volatility that can characterize the FRA's stance towards state safety programs.
  - TxDOT would like to see increased funding dedicated for training, improved information sharing, and consistent processes for inspector certification best practices.

***Allow TxDOT's state funded efforts for Phase 1 of the San Antonio to Dallas Corridor ID (CID) application route to be accepted for inclusion into the CID program, making it eligible for Phase 2 FRA funding.***

Due to a clerical error, TxDOT's application for Phase 1 CID funding for the scoping of potential passenger rail service from Dallas, Texas to San Antonio, Texas was denied by the FRA. This route is intended as part of a larger project to determine the feasibility of passenger rail service for what is commonly referred to as the Texas Triangle composed of three connected routes: Dallas to Houston; Houston to San Antonio; and San Antonio to Dallas. The other two routes were awarded funds for Phase 1 scoping.

TxDOT's scoping and service development planning must consider all three segments from the start to complete the triangle. TxDOT would like to fund Phase 1 scoping of the San Antonio to Dallas route and request that once complete the FRA accept the scoping document for this route and allow for its inclusion in the CID program, making it eligible for Phase 2 of the program, and allowing the three legs of the Texas Triangle project the opportunity to move forward together. TxDOT requests that, if necessary, Congress take action to compel the FRA to accept the scoping document for the San Antonio to Dallas route once completed by TxDOT.

***Clearly define international planning in the CID Program.***

The FRA should clearly define allowable service development planning costs when associated with planning international connections (TxDOT has seen discrepancies between Canada and Mexico, for instance).

## **Maritime**

***Support appropriations for the Brazos River Floodgates and Colorado River Locks, as authorized in the Water Resources Development Act (WRDA) of 2020.***

The U.S. Army Corps of Engineers (Corps) submitted the Brazos River Floodgates and Colorado River Locks Feasibility Study (Chief's Report) to Congress in October 2019. The Chief's Report outlines planned infrastructure improvements to enhance the safety and navigation efficiency on the Gulf Intracoastal Waterway (GIWW) at these two locations. Construction authorization for the Chief's Report was included in WRDA 2020 and \$6.93 million has been appropriated for Pre-construction Engineering and Design. TxDOT requests that Congress appropriate the construction funds needed for the Corps to complete these critical maritime safety projects.

***Continue annual funding of the Corps' Texas navigation construction projects and feasibility studies to completion.***

TxDOT requests that Texas' studies and projects be funded to the maximum extent possible, which will continue to ensure competitiveness in waterborne trade. The Corps has several ongoing feasibility studies and construction projects, including eight projects and two feasibility studies to improve the navigability of Texas ship channels and waterways. The width, depth, and navigability of ship channels that serve a port directly impact the types of vessels and markets that a port can serve. Texas is first among the 50 U.S. states in waterborne commerce; Texas ports handle 607.8 million tons of foreign and domestic cargo and generate \$449.6 billion of total economic value for the State of Texas annually, representing 25 percent of Texas' gross domestic product (GDP). It is

vital to the competitiveness of Texas ports to improve these channels, so ports are equipped to receive larger vessels to accommodate an anticipated increase in cargo tonnage.

**Support increased Corps' funds for the Gulf Intracoastal Waterway (GIWW) in Texas.**

- **Maintenance Dredging:** Funding for additional maintenance dredging is needed to maintain the authorized depth over the entire length of the GIWW. The Corps' Operations and Maintenance budget supports GIWW maintenance dredging. Additional dredging would address shoaling and light loading requirements along the waterway, lessening delays, and costs, which is critical to commodity flow throughout the state. In 2022, 80 million tons of cargo traversed the waterway, supporting \$77 billion in economic activity annually in Texas.
- **Added Maintenance and Expansion of GIWW Fleeting and Mooring Locations:** Fleeting and mooring locations are essential to operator safety and logistics along the waterway and additional funds to maintain and expand these locations will facilitate increased safety and productivity. These locations along the GIWW, where tows can shelter from adverse weather and navigation conditions or stage and interchange barges, require maintenance and expansion. Several factors necessitate action including industrial growth, changing vessel traffic patterns, and changing commodity trends. Undermaintained infrastructure or a lack thereof results in increased travel time and delays and, therefore, additional costs.

**Support increased funding for US Coast Guard (USCG) Vessel Traffic Service (VTS), Aids to Navigation (ATONs), current velocity meters, and bridge cameras for navigation safety and security.**

TxDOT recommends providing additional funding for the USCG to modernize VTS, its Automatic Identification System (AIS) network, and ATONs. The USCG is responsible for providing active monitoring and navigational guidance through the VTS for vessels traversing the busy navigation channels in the Houston-Galveston and Port Arthur areas to ensure their safe and secure movement.

- The AIS network relies on "very high frequency" (VHF) radio transmissions between vessel transponders and receiving antennae to monitor vessel traffic on the nation's waterways. Antiquated equipment and reliance on VHF technology result in lost transponder signals in remote areas and lost data due to bandwidth saturation in congested vessel traffic areas. **Modernization to satellite-based AIS transmission** would greatly improve the safety and security of the nation's waterways and operation of the VTS.
- The USCG is responsible for deploying and maintaining ATONs, both physical and virtual, which define boundaries along the Texas portion of the GIWW. However, in October 2024, the USCG's Houston-Galveston Sector announced that **the USCG would no longer service ATONs along the GIWW** due to a lack of personnel and resources (staffing levels are currently 30% below capacity). Without properly functioning ATONs, vessels risk grounding, causing significant damage, channel degradation, and delays. An increasing number of damaged ATONs exist along the GIWW. In FY 2023, the USCG responded to 366 damaged ATONs along the GIWW in Texas, accounting for \$4,575,000 in costs to address the damages. It is important to note that approximately 95% of damaged ATONs are unreported. Implementing virtual ATON pilot projects where physical ATONs experience frequent damage is essential to understanding their effectiveness and developing plans to expand their usage.
- Funds and personnel are needed to deploy and maintain current **velocity meters and cameras on bridges spanning waterways**. Utilizing current velocity meters to monitor current direction and speed and cameras along bridges aligns with USCG priorities to reduce risk and increase safety along the GIWW in Texas. Operators on the GIWW experience areas with high current velocities that can affect safe navigation. Installing current meters with telemetry to the AIS would help to inform mariners of the occurrence of high currents before they enter problematic areas.