

## ALLOCATION OF FEDERAL AID TO LOCAL ROAD AGENCIES

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### FAST FACTS

- Federal surface transportation programs are established through multi-year authorizing acts. The current federal surface transportation authorization is known as the FAST Act
- Public Act 51 of 1951 (Act 51) requires that an average of 23% to 27% of certain major federal aid program categories be allocated for local road agency projects.
- The FY 2018-19 state transportation budget recognizes \$1.3 billion in federal funds, including \$1.2 billion from Fast Act programs. Of that, \$278.4 million is identified as for local road agency projects.

### BACKGROUND-FEDERAL SURFACE TRANSPORTATION FUNDS

Federal “surface transportation” programs include highway programs, public transportation programs, and rail passenger programs. These programs are established and defined in the U.S. Code—specifically, 23 U.S. Code (Highways), 49 U.S. Code (Transportation). These programs are carried out largely in partnership with state governments. In particular, the federal-aid highway program is mainly a program of federal aid made available to states for specific authorized programs and activities.

Programs established under 23 U.S. Code and 49 U.S. Code are periodically reauthorized under multi-year authorizing acts. These authorizing acts also establish funding targets for authorized programs. The current federal-aid surface transportation authorizing act is called the FAST Act—shorthand for the Fixing America's Surface Transportation Act (Pub. L. No. 114-94) signed into law on December 4, 2015. The FAST Act authorizes federal surface transportation programs through the federal fiscal year ending September 30, 2020.

The FAST Act is largely a series of amendments to 23 U. S. Code and 49 U.S. Code and generally can't be read as a stand-alone document. The act only makes sense when read in conjunction with 23 U.S. Code and 49 U. S. Code. The Federal Highway Administration (FHWA) publishes Fact Sheets that provide a practical method of identifying key provisions of the act.<sup>1</sup>

The following apportioned federal-aid highway programs are authorized under the FAST Act: National Highway Performance Program (NHPP), Surface Transportation Block Grant Program (STBG, formerly Surface Transportation Program), Highway Safety Improvement Program (HSIP), which includes Railway-Highway Crossings, Congestion Mitigation and Air Quality Improvement Program (CMAQ), Metropolitan Planning, and the National Highway Freight Program (NHFP).

<sup>1</sup> The following links are to Fast Act legislation, apportionment, and fact sheet pages on the FHWA website:  
<https://www.fhwa.dot.gov/fastact/factsheets/apportionmentfs.cfm>; <https://www.fhwa.dot.gov/fastact/legislation.cfm>;  
<https://www.fhwa.dot.gov/fastact/factsheets/stbgfs.cfm>

## FEDERAL-AID HIGHWAY PROGRAM AND STATE GOVERNMENT/LOCAL ROAD AGENCIES

FAST Act funding for highway programs is made available to the states in various program categories. States are responsible for administering the federal aid programs in accordance with federal requirements.

Most of Michigan's federal-aid highway funds are used in the Michigan Department of Transportation (MDOT) state trunkline capital construction and preservation program. The FY 2018-19 state transportation budget recognizes \$808.6 million in federal aid in the state trunkline road and bridge construction line item, plus additional federal funds in support of MDOT information technology, planning, and engineering services.

Because a number of federal-aid eligible roads in Michigan are under the jurisdiction of local road agencies (county road commissions, cities, and villages), Section 10o of Public Act 51 of 1951 (Act 51) requires that an average of 23% to 27% of certain major federal aid program categories be allocated for local road agency projects. There is no required amount or percentage allocation to any particular local road agency. The FY 2018-19 state transportation budget recognizes \$278.4 million in federal aid for local road agency federal aid programs.

It may be helpful to contrast the way federal funds are *made available* to local road agencies in Michigan with the way state motor fuel and vehicle registration tax revenue is *distributed* to local road agencies. Under the provisions of Act 51, all 83 road commissions and 531 eligible cities and villages receive a monthly distribution from the Michigan Transportation Fund (MTF)—the main collection and distribution fund for motor fuel and vehicle registration tax revenue. These local road agencies have broad authority to spend their MTF money for local road and street programs, including routine maintenance.

In contrast to the way Act 51 *distributes* MTF funds, federal funds are *made available* within categorical programs for certain qualified projects—generally for capital construction or preservation projects (not routine maintenance) and only for roads and bridges meeting certain criteria. Not all cities and villages have streets that meet the criteria.

The federal-aid highway program is a reimbursement program. Local road agencies do not receive federal funds and then decide how to spend them. Only after an eligible project is approved—following a federally mandated planning process—and the local agency makes eligible project expenditures, does federal aid reimburse the local agency for those expenditures.

## ALLOCATION OF FEDERAL FUNDS TO LOCAL ROAD AGENCIES

As required by federal law, the federal-aid highway programs in urbanized areas are administered by the applicable metropolitan planning organization (MPO).<sup>2</sup>

As noted above, the federal-aid highway program makes funds available to states. Act 51 establishes a set-aside of certain federal funds for local agency federal aid projects, but Act 51 does not further suballocate to specific local road agencies. While some federal-aid highway categorical programs provide for the suballocation of funds within a state by population, federal law generally does not support suballocation of federal funds to political jurisdictions within a state. However, in administering the local federal aid program, some MPOs effectively do suballocate federal aid to local road agencies by establishing federal aid “targets” by jurisdiction.

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<sup>2</sup> According to 23 USC 134, the term “urbanized area” means a geographic area with a population of 50,000 or more, as designated by the Bureau of the Census. 23 USC 134 establishes specific authority and responsibility for MPOs as part of the federally mandated planning process. <https://www.fhwa.dot.gov/planning/>

MDOT, working within the directives of federal law and Act 51 requirements, identifies the amount of federal aid highway funds, by category, available for local road agency programs in urbanized areas. The MPO establishes federal aid “targets” for local road agencies within the region. Local “federal aid committees,” working within the target figures, then identify and rank projects according to various criteria (pavement condition rating, average daily traffic, etc.). The highest priority projects are proposed for consideration, approval, and inclusion in the region’s Transportation Improvement Plan (TIP).

The proposed projects must be fundable within the federal aid “target.” In other words, the TIP must be “fiscally constrained.” Projects can be included in the TIP only if an actual funding source is identified.

Note that a local road agency’s federal target figure is just that—a target. Again, unlike the MTF revenue distribution to local road agencies, the federal funds represented by the target figure do not belong to the road agency when the target is established—there is no entry in the agency’s financial records. The target figure is used to assist local agencies in programming a federal-aid capital construction program. If a local agency is unable to develop an eligible project in the TIP, funds may be shifted to other agencies to ensure that all available federal funds are obligated. Failure to obligate all available federal funds by program deadlines could result in the loss of federal aid to the state.

## **RURAL TASK FORCES**

While MPOs help administer federal surface transportation funds in urbanized areas, the allocation of federal aid in non-urbanized areas follows a somewhat different process. In non-urbanized areas, Act 51 agencies—county road commissions, cities, villages, and eligible public transit agencies—meet periodically through a defined *rural task force* (RTF) project selection process to come to agreement on the allocation of federal aid within the designated rural task force geographic area. There are 22 designated rural task forces in Michigan within 14 planning and development regions in Michigan. The RTF planning process was first established in Michigan in 1987.

RTF program policy is set by the RTF Program Advisory Board (PAB), established in 2014. The PAB comprises voting members representing relevant stakeholders.<sup>3</sup>

As in urbanized areas, MDOT identifies estimated available federal aid for each RTF. Projects selected by each RTF must be matched by identifiable funding levels—they must be fiscally constrained. Except for RTF projects within an MPO planning boundary, which must follow the MPO planning process and become part of the MPO TIP, projects selected by each RTF become part of the State Transportation Improvement Program (STIP).<sup>4</sup>

## **SOUTHEAST MICHIGAN/SEMCOG**

In southeast Michigan, the federal-aid highway program is administered by the Southeast Michigan Council of Governments (SEMCOG), a voluntary association of local governments (counties, cities, townships, villages, and school districts) within the seven-county area of Southeast Michigan. SEMCOG is an MPO, organized in 1968 under the authority of Public Act 281 of 1945.

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<sup>3</sup> RTF guidelines can be found on the MDOT website: [https://www.michigan.gov/mdot/0,4616,7-151-9621\\_17216\\_54903---,00.html](https://www.michigan.gov/mdot/0,4616,7-151-9621_17216_54903---,00.html)

<sup>4</sup> For additional information on the MDOT Local Federal Aid program, see the July 2016 MDOT White Paper *Michigan’s Metropolitan Planning Organizations and Regional Planning Agencies*. [https://www.michigan.gov/documents/mdot/2040\\_MPO-RPA\\_White\\_Paper\\_Final\\_2016\\_514142\\_7.pdf](https://www.michigan.gov/documents/mdot/2040_MPO-RPA_White_Paper_Final_2016_514142_7.pdf)

The process for allocation of federal-aid highway funds in the SEMCOG MPO region is somewhat more complex than in the other out-state urbanized areas. In the tri-county Lansing region, for example, there is only one federal aid committee composed of representatives of the three counties, and other local units of government, within the region. In the SEMCOG region there are separate federal aid committees for each county as well as a separate “committee” for the city of Detroit. Because Wayne County has jurisdiction over certain federal aid eligible roads within the municipal boundaries of the city of Detroit, those two agencies have to coordinate project selection.

## **MDOT AND LOCAL ROAD AGENCIES**

MDOT provides administrative and technical support to local agencies to ensure that the development of local federal-aid projects follows federal requirements. In addition, the department advertises and awards local federal-aid project construction contracts on behalf of local road agencies; local federal-aid projects follow the same competitive bidding process as state trunkline projects. Contractor payments and other local project costs are processed through the department’s contractor payment and federal-aid billing systems.

MDOT accounts for the local federal aid program in a *Transportation Related Trust Fund*. Trust fund expenditures represent local federal aid project costs, including costs of local federal aid construction activity. Trust fund revenues are primarily federal aid reimbursement of the cost of those local federal aid projects. All projects accounted for in this fund are locally owned. Each year Transportation Related Trust Fund revenue and expenditures are equal; the Transportation Related Trust fund never carries a fund balance.

## **FEDERAL-AID HIGHWAY FUNDS RELATION TO THE STATE BUDGET**

Activities related to the allocation of federal-aid highway funds, and the federal-aid project planning process, are generally independent of the state appropriations process. Federal-aid highway funds shown in the annual state transportation budget are based on MDOT estimates of available federal obligation authority; the actual amount is often unknown during budget development—it may not be known until well into the state fiscal year. The annual state budget simply provides MDOT with state appropriation authority to spend federal funds. The state budget does not determine the amount of federal funds available to spend or the allocation by program category.

The FY 2018-19 state transportation budget includes \$1.3 billion in federal funds, \$1.2 billion from FAST Act surface transportation programs, and \$79.0 million in federal Airport Improvement Program funding.

Federal funds are appropriated in several programmatic line items in the transportation budget, including information technology, transportation planning services, and design and engineering services, as well as state trunkline road and bridge construction. As MDOT makes eligible expenditures, it charges those expenditures to federal funds appropriated in those line items, and is in turn reimbursed by federal funds.

The local road agency share of federal-aid is represented in the appropriation line item *Local federal aid and local road and bridge construction* in the state transportation budget. This line item is shown as \$278.4 million in the FY 2018-19 budget. However, this line item is simply a marker to represent federal funds available to local road agencies. This appropriation does not determine the actual amount available to local agencies or direct the amount available to particular local agencies. No expenditures are actually charged to this line item. As noted above, local federal aid revenue and expenditures are accounted for in a *Transportation Related Trust Fund*.

**Table 1: State of Michigan  
Expenditure of Federal-Aid Funds  
FYs 1996-97 Through FY 2017-18**

Fiscal Year	Total Federal-Aid Highway Funds			Breakout:
	Baseline Federal-Aid Highway Funds	ARRA Highway Funds	Total Federal-Aid Highway Funds	Federal-Aid Highway Funds to Local Units
1996-97	\$605,869,000		\$605,869,000	\$104,493,000
1997-98	616,430,000		616,430,000	96,043,000
1998-99	670,176,000		670,176,000	115,884,000
1999-2000	881,620,000		881,620,000	166,468,000
2000-01	868,270,000		868,270,000	183,232,000
2001-02	808,708,000		808,708,000	194,139,000
2002-03	766,124,000		766,124,000	191,306,000
2003-04	809,932,000		809,932,000	187,790,000
2004-05	962,542,000		962,542,000	154,760,000
2005-06	976,286,000		976,286,000	173,594,000
2006-07	1,095,937,000		1,095,937,000	200,915,000
2007-08	1,043,921,000		1,043,921,000	291,828,000
2008-09	1,097,845,000	\$124,928,000	1,222,773,000	276,845,000
2009-10	826,812,300	532,113,200	1,358,925,500	368,980,000
2010-11	1,118,905,000	175,419,000	1,294,324,000	255,464,000
2011-12	1,060,572,200	24,115,200	1,084,687,400	245,319,000
2012-13	1,122,261,900	6,955,600	1,129,217,500	258,255,000
2013-14	1,219,563,600	641,300	1,220,204,900	314,204,000
2014-15	1,177,851,100	62,700	1,177,913,800	313,229,000
2015-16	1,062,622,200	0	1,062,622,200	263,272,000
2016-17	1,049,301,800	29,000	1,049,330,800	283,329,000
2017-18	1,093,275,400		1,093,275,400	286,610,000

Notes:

1. This table shows federal-aid highway funds expended by the state of Michigan, including federal-aid highway funds expended for projects under local road agency jurisdiction.
2. The table does not include Federal Transit Administration or Airport Improvement Program grants.
3. ARRA represents federal economic stimulus funds provided under the American Recovery and Reinvestment Act of 2009 (123 Stat. 115).
4. Figures in the Total Federal-Aid Highway Funds section are from the Schedule of Federal Financial Assistance in annual MDOT Financial Reports, with the exception of FY 2018, which is a preliminary estimate provided by MDOT, Financial Operations Division.
5. The column Breakout: Federal-Aid Highway Funds to Local Units is a subset of total federal-aid highway funds expended by the state of Michigan. These figures represent Transportation Related Trust Fund federal revenue as shown in annual MDOT financial reports, except for FY 2018, which was estimated by the House Fiscal Agency.