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June 1, 2023

Mr. Andrew Rogers
Deputy Administrator
Federal Highway Administration
1200 New Jersey Ave., SE
Washington, DC 20590

RE: FHWA-2023-0004, Inflation Reduction Act, Request for Information

Dear Deputy Administrator Rogers,

On behalf of the Associated General Contractors of America (AGC), I appreciate the opportunity to comment on the Federal Highway Administration's (FHWA) Request for Information on the Inflation Reduction Act (IRA).

AGC is the nation's leading construction trade association. It dates to 1918, and it today represents more than 27,000 member firms including construction contractor firms, including America's leading general contractors, specialty-contracting firms, and suppliers. Through a nationwide network of 89 chapters in all 50 states, D.C., and Puerto Rico, AGC contractors are engaged in the construction of the nation's highways, bridges, broadband infrastructure, airports, transit systems, water works facilities and multi-family housing units, among other things.

AGC believes that FHWA should prioritize the use of the funds provided under the IRA to expedite project delivery in these specific ways:

- I. Support State DOT Staff Capacity Constraints
- II. Educate State DOT and FHWA Division Office Personnel on Recent Permitting Reforms
- III. Develop Resources Highlighting the Benefits of NEPA Assignment
- IV. Launch New Every Day Counts Initiatives Focused on Innovative Project Delivery

I. Support State DOT Staff Capacity Constraints

Since the passage of the Infrastructure Investment and Jobs (IIJA), AGC members and chapters have reported staff capacity constraints in state DOT offices which has caused delays in project letting. While the increases in funding provided by the IIJA will allow us to rebuild the nation's infrastructure, this has currently been constrained in some states due to staffing shortages which has impacted their ability to administer the programs.

To the extent possible, FHWA should make these funds available to state and local governments to assist them with hiring additional staff to complete environmental reviews of surface transportation projects. The personnel in these offices that handle environmental reviews are involved with the projects that have the biggest potential to make an improvement in American's lives. Ensuring that these offices have the necessary staff will ensure that these projects break ground in a timely manner.

II. Educate State DOT and FHWA Division Office Personnel on Recent Permitting Reforms

The Moving Ahead for Progress in the 21st Century Act (MAP-21), the Fixing America's Surface Transportation (FAST) Act, and the IIJA have all included provisions to streamline the environmental review and permitting process. However, FHWA should use these funds to ensure that the proper personnel are fully educated on these provisions so they can become champions of these reforms. These reforms can provide an opportunity to expedite projects and deliver on the promise of the IIJA.

While FHWA has done a great job in releasing guidance and frequently asked questions (FAQs) on these reforms, too often it is assumed divisions and state DOTs will automatically implement or utilize them. Likewise, it is assumed that they are utilizing these new reforms. For many states, they get in the practice of doing things a certain way and need to be reminded of recent reforms that can save time and money. FHWA should use this as an opportunity to further this education. In doing so, they can create a project delivery "champion" who will proactively ensure that project managers are aware of these latest reforms.

III. Develop Resources Highlighting the Benefits of NEPA Assignment

The Surface Transportation Project Delivery Program allows a state to assume the Secretary's responsibilities for environmental review, consultation, or other action required under any Federal environmental law.¹ To date, seven states have taken on this responsibility, and another state is currently in the process of doing so.

Many states, such as Texas, have highlighted the benefits of their decision to take on this responsibility.² The major benefits of this program include eliminating a layer of review and cost and time savings. Because a state is legally responsible and liable for decisions made under NEPA assignment,³ states are often hesitant to join the program.

FHWA should develop resources to aid states that are considering taking on NEPA assignment responsibility. They should gather data from states in the program, who are willing, that would show the cost and time savings associated with projects that require an Environmental Assessment (EA) or an Environmental Impact Statement. While it is difficult to compare one EIS to another, even anecdotal information could be helpful. This is the type of information that could be extremely helpful in the cases of states that are considering and need approval from their state legislature.

IV. Launch New Every Day Counts Initiatives Focused on Innovative Project Delivery

Every Day Counts (EDC) has been a great state-based model to help identify and deploy solutions that have been tested by state DOTs.⁴ These innovations have promoted greater efficiency and helped state and local governments save time and money. Over the years there have been several

¹ FHWA, NEPA and Project Development, https://www.environment.fhwa.dot.gov/nepa/program_assignment.aspx

² AASHTO, Center for Environmental Excellence, https://environment.transportation.org/case_study/txdot-accrues-multiple-benefits-from-nepa-assignment-responsibilities/

³ Texas Department of Transportation, <https://www.txdot.gov/about/programs/environmental/nepa-assignment-documentation.html>

⁴ FHWA, Every Day Counts, <https://www.fhwa.dot.gov/innovation/everydaycounts/about-edc.cfm>

initiatives focused on project delivery including virtual public involvement,⁵ integrating NEPA and permitting,⁶ and enhanced collaboration for environmental reviews.⁷

FHWA should use this as an opportunity to launch a new round of EDC initiatives all focused on innovative project delivery. These state-based solutions allow for greater information sharing and an opportunity to pilot various initiatives that can ideally be deployed nationwide. Likewise, these initiatives often get the attention of Congress who has then sought to include these solutions in their reauthorization legislation.

Conclusion

The IIJA provides us with a historic opportunity to rebuild our nation's roads and bridges. If we reach the final year of the law and there are not completed projects in every community, then this legislation could end up being a once in a lifetime law rather than the new norm. FHWA should prioritize these funds to ensure that states can break ground on construction projects in an efficient manner. Thank you again for the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "James V. Christianson". The signature is fluid and cursive, with a long horizontal flourish extending from the end of the name.

James V. Christianson
Vice President, Government Relations

⁵ FHWA, Virtual Public Involvement, https://www.fhwa.dot.gov/innovation/everydaycounts/edc_6/virtual_public_involvement.cfm

⁶ FHWA, Every Day Counts 4, <https://www.fhwa.dot.gov/innovation/everydaycounts/edc-4.cfm>

⁷ FHWA, EDC 3, <https://www.fhwa.dot.gov/innovation/everydaycounts/edc-3.cfm>