



Federal Funds Swap Programs

WEBINAR SERIES: INNOVATION IN PRACTICE

March 10, 2021

Webinar Logistics



PowerPoint Presentation available on BATIC Website

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Webinar Overview

Federal Highway Fund Swapping

- Steve Cohen, GAO

State Experience

Connecticut

- Bill Grant, CT DOT
- Hugh Hayward, CT DOT

Iowa

- Nicole Moore, Iowa DOT

Questions Submitted by Webinar Participants

Report to the Committee on Transportation and
Infrastructure, House of Representatives

FEDERAL-AID HIGHWAYS: States and
Local Governments Reported Benefits to
Federal Highway Fund Swapping, but
Impacts Cannot be Definitively Determined

What are Federal Funding Exchange (or Fund Swapping) Programs?

- Arrangements in which state DOTs allow local agencies to exchange their state's proposed allocation of federal-aid highway funds for state transportation funds.
- By swapping funds, local agencies complete a project with state funds instead of the federal funds that state DOTs have traditionally provided local agencies.
- When swapping occurs, local agencies must comply with applicable state and local requirements, and generally not federal requirements. For example:
 - Davis Bacon prevailing wage rates
 - Buy America
 - Disadvantaged Business Enterprises

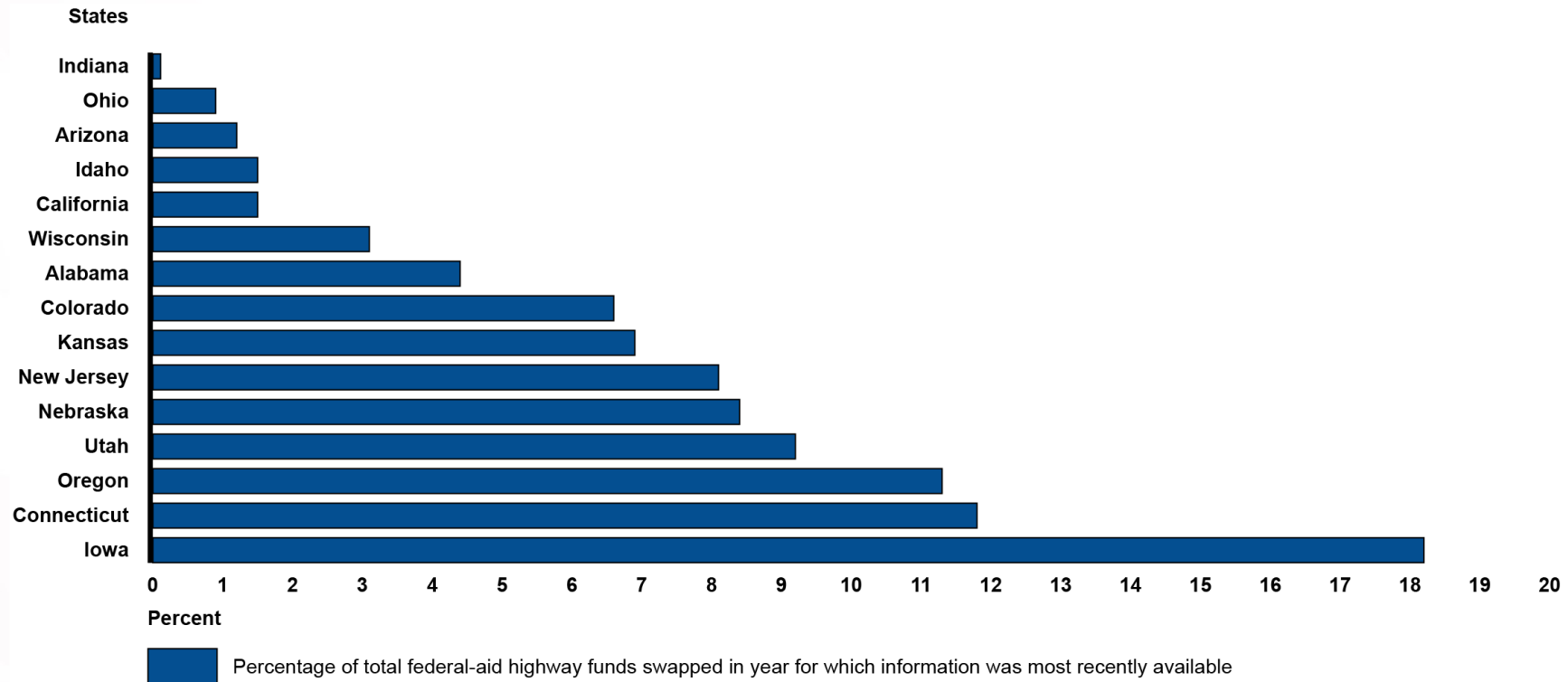
Report Objectives

- The Chair and Vice Chair of the House Committee on Transportation and Infrastructure asked GAO to review the prevalence of federal-aid highway funding exchange programs and its impact on adherence to federal requirements and local economies.
- GAO reviewed:
 - The extent to which state and local agencies engage in federal fund swapping.
 - Factors that affected whether state and local agencies engage in federal fund swapping.
 - What is known about the impact fund swapping has on the application of selected federal requirements.

Scope & Methodology

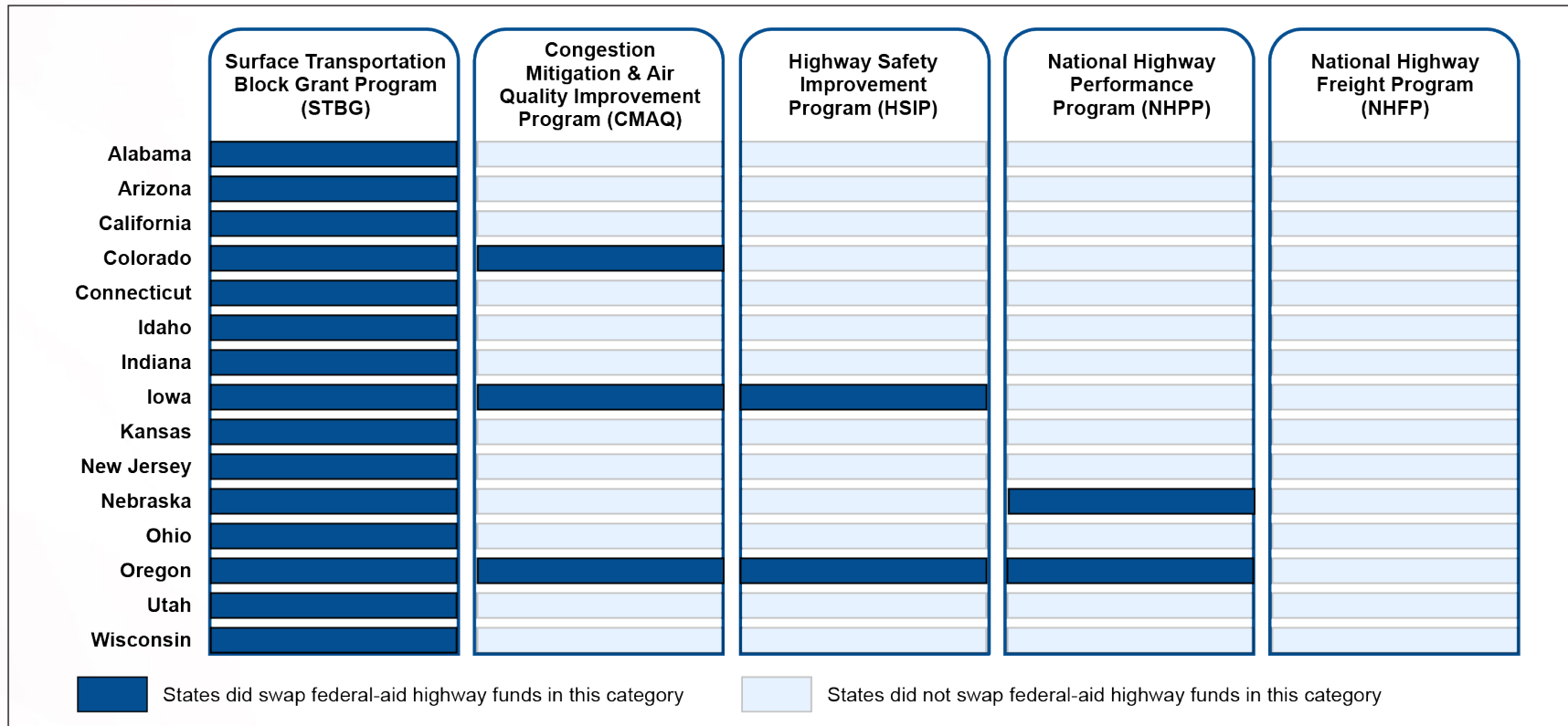
- Distributed a questionnaire to 50 state DOTs (100 percent response rate).
- Conducted interviews with state DOTs that currently engage in fund swapping (or did so in the past 5 years).
- In 4 states, conducted interviews with local public agencies and representatives from construction firms and unions.

Extent of Funding Exchange Programs: 15 States Swapped Funds Between 2016-2020



Source: GAO analysis of information from state DOT officials and FHWA data. | GAO-21-88

Extent of Funding Exchange Programs: States Primarily Swap STBG Funds



Source: GAO analysis of information from state DOT officials. | GAO-21-88

Factors Affecting Fund Swapping: Benefits Cited by State & Local Officials

- Reduces the risk of noncompliance with federal requirements.
- Provides agencies greater flexibility and control over local projects.
- Puts agencies in better position to save time and money on project delivery.

Factors Affecting Fund Swapping: Obstacles Cited by State Officials

- Lack of funding
- State law
 - Enabling legislation
 - Restrictions on use of state funds

Impact of Fund Swapping

- The impact of fund swapping on the payment of prevailing wages and the application of other federal requirements cannot be definitively determined.
- States generally do not track which state administered projects were funded with federal funds swapped by local agencies. (Swapped federal funds go “back in the pot”)
- It is not possible to know if a local agency implemented the same number and type of projects with state funds.

Impact of Fund Swapping

- The same amount of federal-aid funds are expended statewide with or without fund swapping.
 - STBG funds suballocated to areas of >200,000 (TMAs) remain the same.
- Fund swapping could increase or decrease the amount of federal funding in particular localities.
- States could be initiating additional projects or increasing the federal share on existing projects.
- About half the states with funding exchange programs told us they have state-level prevailing wage laws.



GAO@100

A Century of Non-Partisan Fact-Based Work

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Connecticut Department of Transportation “Local Transportation Capital Improvement Program” (LOTICIP)



William E. Grant, P.E.

Connecticut
Department of Transportation



History of Infrastructure Improvements with LPA's at CTDOT

1991 ISTEA Federal STP-Urban Program

**Provides \$40-60 million in Federal funds
for eligible LPA roadways**

**CTDOT provides oversight - resource
intensive**

**Most Municipalities are not accustomed
to and have difficulty with Federal
Title 23 requirements**

**Connecticut
Department of Transportation**



2009 American Recovery and Reinvestment Act (ARRA)

\$90 million of Federal stimulus funds programmed to the Municipalities in Connecticut

Federal Title 23 regulations with CTDOT oversight and extensive reporting

Very burdensome on the CTDOT and Municipalities



How Can the CTDOT Improve its Business Practice?



Federal Title 23 Regulations

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The CTDOT Proposed a New Fund Swap (LOTICIP) Program

Two Main Goals:

- **Develop a program that makes it easier for Municipalities to implement local capital improvements (with State funds)**
- **Minimize CTDOT oversight and allow CTDOT to focus its limited resources on Federal aid**



LOTICIP Development

Legislation drafted September 2012

Professional Working Group formed in February 2013 to write LOTICIP guidelines - includes CTDOT, Municipal and Regional members



Public Act 13-239 passed July 2013 establishing LOTICIP, 100% State-funded Program effective November 2013

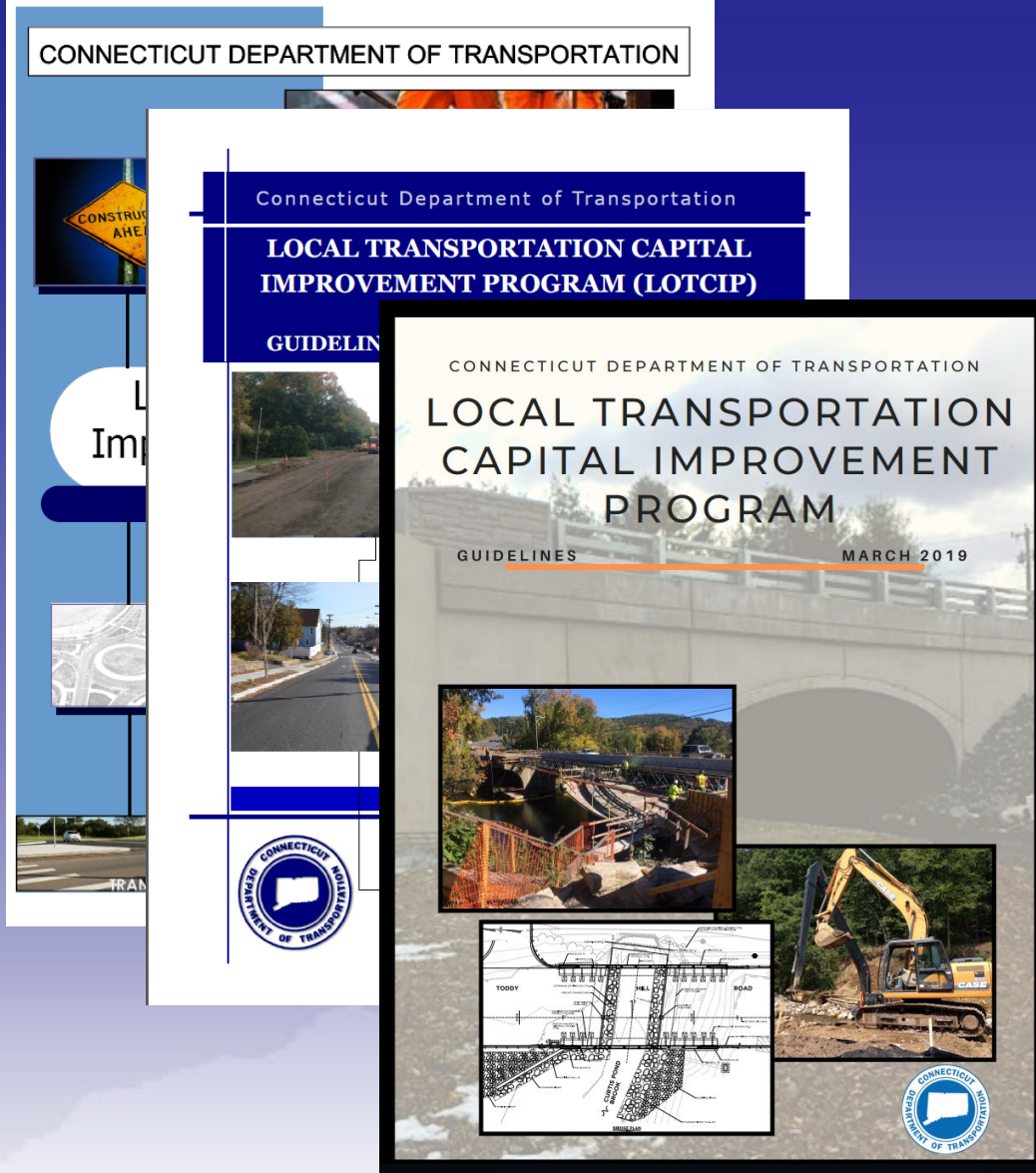


Basic Legislation Content

- Establishes the LOTCIP program
- CTDOT Commissioner may request bond funds for the program each year
- The CTDOT shall accept applications from COGs and funding is provided under CTDOT written guidelines
- Improvements will have a service life of approximately 20 years
- Improvements are not a State action when on a locally-owned roadway for Flood Management permitting



LOTICIP Guidelines

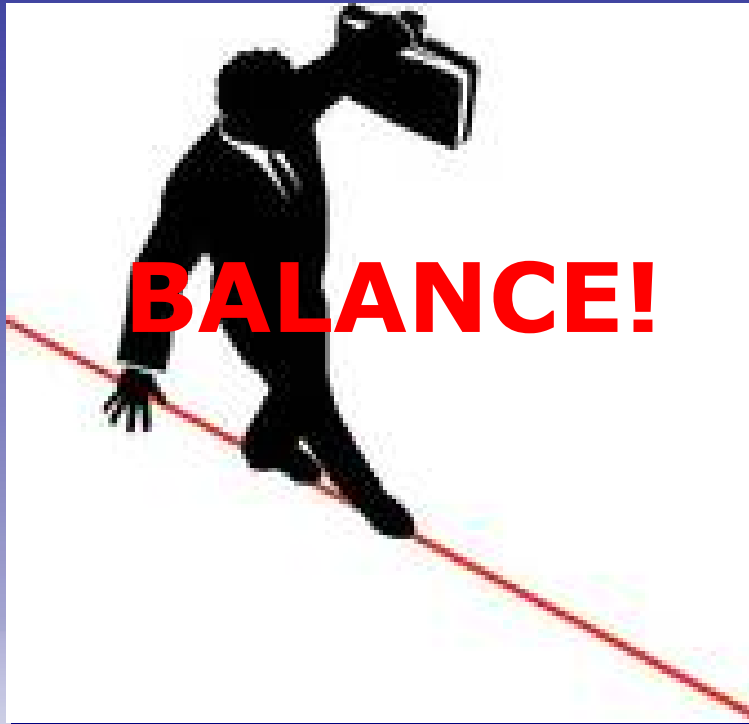


**Third Edition
LOTICIP March
2019
Guidelines is
available on
our website-
just Google
LOTICIP**

**Connecticut
Department of Transportation**



The LOTCIP is intended to be a balance between a grant program and Federal Title 23 requirements



Grant
Program

Federal Title 23
Regulations

Connecticut
Department of Transportation



LOTICIP Basic Parameters

- **LOTICIP State Funds distributed to the nine Regional Council of Governments (COGs) following the Federal Population Model (\$1 for \$1)**
- **LOTICIP State funds are held in CTDOTs Financial Management system in COG specific accounts until LOTICIP project is ready for delivery**
- **LOTICIP to mirror Federal STBG eligibility; roadway classification, urbanized areas, etc.**



LOTICIP Basic Parameters (cont.)

- **Project scoping and design responsibilities are shifted to the COGs and Municipalities**
- **Municipality pays 100% of project design costs (considered local share)**
- **100% LOTICIP State-funded construction phase**
- **CTDOT not involved in design reviews (unless affecting a State-owned roadway), or construction oversight/inspection**



LOTICIP Application to CTDOT

- **COG solicits member Municipalities for project proposals**
- **COG ranks and selects project proposals through a competitive process-CTDOT does not dictate the selection process**
- **Municipality completes full LOTICIP project application**
- **COG submits LOTICIP project applications to the CTDOT**



LOTICIP Preliminary Design

- **CTDOT reviews proposals for application completeness, eligibility, purpose and need and service life**
- **Once satisfied, CTDOT sends a Commitment to Fund letter to the COG and Municipality**
- **Municipality begins preliminary design**
Note: DOT will not be performing technical reviews of the design
- **If change in scope or 20% cost increase Municipality must justify to COG/CTDOT**



LOTICIP Environmental Permitting/Rights of Way

- **Environmental permitting is the responsibility of the Municipality**
- **Flood Management Certification is the responsibility of the Municipality when improvements are on a locally-owned roadway**
- **Rights of Way: Can be acquired by the Municipality or State following the “Uniform Act”**



LOTICIP Final Design

- **At completion of design, Municipality forwards a Final Design submission (PS&E) to the COG then to CTDOT along with certifications**
- **Upon acceptance of contract package, (including State wage rates) CTDOT sends a Project Authorization Letter (PAL agreement) to Municipality based on final estimate**
- **Upon receipt of signed PAL, CTDOT authorizes Municipality to advertise project**



LOTICIP Construction

- **Municipality opens bids, CTDOT makes grant payment to Municipality for 100% of low bid plus 10% contingencies and 10% incidentals-note Construction funds are capped at this amount**
- **Contract administered by Municipality**
- **Municipal employee to be in responsible charge of LOTICIP project**
- **Inspection by Municipal staff or consultant**



LOTICIP Construction

- **Final Package submission to the CTDOT: acceptance of project and materials certification**
- **Final Audit**



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LOTICIP Communication

- **CTDOT requires quarterly reporting from the COGs on project costs and schedules**
- **CTDOT/COG quarterly meetings with current LOTICIP status followed by Q&A**
- **Annual CTDOT/COG specific meetings to discuss the individual COGs overall LOTICIP financial status**
- **Normal project-level day to day communication between CTDOT/COG**



Key Points to Remember

- **LOTICIP fundamentally shifts project responsibilities to the COGs and Municipalities through the certification process**
- **CTDOT now utilizes the Federal STBG Urban funds predominantly on State-owned infrastructure**
- **COGs and their member Towns, over the past seven years, have grown to value the LOTICIP, preserving it through multiple difficult State budget cycles**
- **LOTICIP has met the two original program goals**



**Questions?
Please contact:**

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**Connecticut
Department of Transportation**



Iowa DOT - Local Systems Federal-aid Swap

Iowa DOT

Local Systems Bureau

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Why would the DOT and LPAs want to do this?

- FHWA Requires the State DOTs to provide oversight on Federal-aid projects
- LPA programs seen nationally as a high risk area
- Requires a lot of effort on the DOTs part to provide oversight role
- A LOT of guidance
- LPAs lose Federal-aid if they don't follow the process correctly

Instructional Memorandums to Local Public Agencies Table of Contents

Some I.M.s are written either to counties or cities; others are written to both counties and cities. The intended audience is indicated in the "To:" field of the I.M. as well as the Table of Contents below. Many of the I.M.s are referenced by the Federal-aid Project Development Guide (Federal-aid Guide). These I.M.s are marked with an asterisk (*). For more information about the relationship between the [Federal-aid Guide](#), the [Non-Federal-aid Guide](#), and I.M.s, refer to the [Guide and I.M.s web page](#). The funding type is listed in the Table of Contents below, and will be labeled for Federal-aid (F.A.), Federal-aid Swap (Swap), State-aid (State), Farm-to-Market (F.M.) or Local; if the I.M. applies to all types of funding, "All" will be used as the Funding type.

Note: The I.M.s have been transitioned into a new numbering system; please see the [I.M. Renumbering Conversion Chart](#). Some of the I.M.s are not yet complete, as shown in light grey text. Most of the links to the [Code of Federal Regulations](#) (CFR) and the [United States Code](#) (USC) have been removed from the individual I.M.s below. To get to the general CFR and USC, you can click on the links above and search each respective page.

No.	Subject	Revision Date	Funding	Written To
Chapter 1 – Administration				
Chapter 2 – County Road System				
Chapter 3 – Project Development				
Chapter 4 – Environmental Regulations				
Chapter 5 – Letting and Contracts				
Chapter 6 – Construction				
Chapter 7 – Maintenance				
Chapter 8 – Miscellaneous Information				
Chapter 1 – Administration				
Section 1.0 -- General				
1.000	Iowa DOT Oversight of LPA Projects	(future)	All	Both
1.010	Acronym List	December 31, 2019	All	Both
1.020	References to the Iowa Code	August 7, 2020	All	Counties
1.070*	Title VI and Nondiscrimination Requirements	June 29, 2018	F.A.	Both
1.080*	ADA Requirements	October 1, 2013	All	Both
	Attachment A – Sample Curb Ramp Transition Plan (Word)	August 24, 2012	All	Both
Section 1.1 -- Programs				
1.100*	Highway Bridge Programs for Cities and Counties	December 31, 2020	All	Both
	Attachment A – City Bridge Priority Point Rating Worksheet (Word)	April 24, 2018	F.A., Swap	Cities
	Attachment B – County Bridge Priority Point Rating Worksheet (Word)	April 29, 2020	All	Counties
	Attachment C – Touchdown Points and Limits of Participation	July 18, 2011	F.A., Swap	Both
	Attachment D – County HBP Fiscal Constraint Requirements	July 18, 2011	F.A., Swap	Counties
1.150	Federal-aid Swap Program	August 7, 2020	Swap	Both
	Attachment A - Federal-aid Swap Policy Approved by the Iowa DOT Commission February 13, 2018	August 7, 2020	Swap	Both
1.180	Procedures for Developing and Administering Emergency Relief (ER) Projects	December 31, 2020	F.A.	Both

Federal-aid Swap Overview

- Long history of discussion of Federal-aid Swap - DOT & Locals
- State Legislation was needed to allow Swap
- Same amount of dollars are still subject to Federal requirements.
 - These projects will be administered mostly by the Iowa DOT.
 - These projects will all require Davis Bacon wages
 - These projects will all require Buy America
- Federal funds normally received by LPAs are exchanged for State funds. (~\$170 Million per year for Locals)
- Numerous meetings with many stakeholders to develop Swap program
- \$1 for \$1 exchange rate.
- Projects let at the Iowa DOT.
- Swap Funds will only be used for **Construction projects.**
- Swap Funds available dependent on Federal funding levels and Iowa DOT cash flow.
- This is taxpayer money, so some oversight is still conducted.



Swapped Programs for LPAs



Surface Transportation Block Grant (STBG)

- Nearly the entire STBG program was set aside for Locals under Federal-aid (FAST Act and MAP-21)
- ~\$170 Million per year
- Broken into set-aside type programs
 - STBG mostly for pavements, allocated through RPAs & MPOs
 - County HBP (kept most rules as old HBP program under SAFETEA-LU)
 - City HBP – grant based program awarded on points



Surface Transportation Block Grant (STBG)



- Funds allocated through RPAs and MPOs
- Eligible Routes:
 - All Federal-aid eligible routes, including Rural Minor Collectors.
 - All Farm-to-Market System Routes
- Not allowed on roads classified as Local Roads
- However, Bridges on any road are allowed
- Eligible for 100% reimbursement, subject to MPO and RPA match requirements
- Eligible for Preliminary Engineering (PE) and Construction Engineering (CE), subject to MPO and RPA requirements and approval. Although eligible, PE and CE are not encouraged – administrative burden for all involved

County Highway Bridge Program (HBP)

- 100% funding for construction – no match required
- Current requirements - SD or FO, SR 80 (rehab) 60 (reconstruction) or less, 25 or more ADT
- Borrow ahead up to 4.5 years of funds
- No more HBP bridge inspections or PE or CE, per ICEA policy



City Bridge Program



- 100% Funding
- “Local Match” is with consultant design and/or construction
- Only Construction costs are eligible for reimbursement
- Priority Points and other program guidance remains the same as detailed in I.M. 1.100

City Bridge Priority Point Rating Worksheet

FHWA Structure Number: _____ City: _____

Inspection date used: _____ Estimated improvement cost: _____

Sufficiency Rating:

Priority Points

81 - 100 = 0 points	35 - 42 = 6 points
75 - 80 = 1	27 - 34 = 7
67 - 74 = 2	19 - 26 = 8
59 - 66 = 3	11 - 18 = 9
51 - 58 = 4	≤ 10 = 10
43 - 50 = 5	

Sufficiency Rating: _____ = _____

Estimated Average Daily Traffic:

< 25 = 0 points	3001 - 4000 = 6
25 - 250 = 1	4001 - 6000 = 7
251 - 500 = 2	6001 - 8000 = 8
501 - 1000 = 3	8001 - 10,000 = 9
1001 - 2000 = 4	> 10,000 = 10
2001 - 3000 = 5	

Est. ADT: _____ = _____

Bypass, Detour Length (Out-of-distance Travel) (miles):

< 1 = 0 points	≥ 3 < 4 = 8
≥ 1 < 2 = 4	≥ 4 = 10
≥ 2 < 3 = 6	

Detour: _____ (miles) = _____

Bridge Posting (SI&A Item 70 value):

5 = 0 points	2 = 6
4 = 2	1 = 8
3 = 4	0 = 10

Bridge Posting: _____ (SI&A Item 70 value) = _____

Total Points = _____

(40 points maximum)

Highway Safety Improvement Program – Secondary (HSIP-S)

- \$2M annually
- Continue the program per program guidance
- Submit applications by deadline(s)
- Program guidance is being reviewed to meet the needs and intent of the program with swapped funding



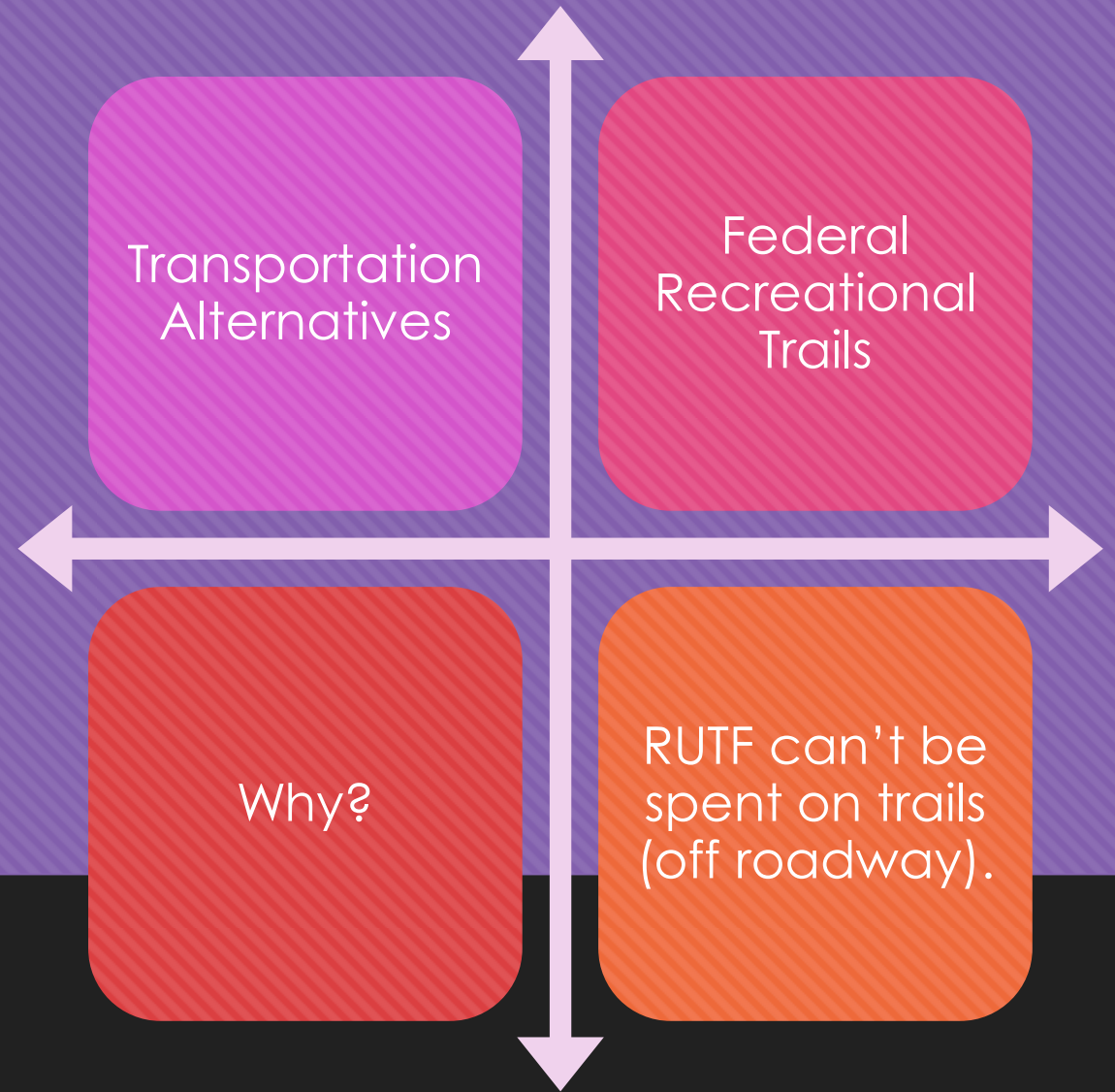
ICAAP

Some ICAAP Road and Bridge projects may be able to be Swapped

Part of CMAQ program



Some programs are not Swapped



Federal-aid Swap Efficiencies

Items no longer needed:

- DBE Commitment – less paperwork to fill out
- Davis-Bacon wages – Certified Payrolls, Wage Rate Interview
- Buy America
- NEPA through FHWA (however, environmental requirements remain)

Programming efficiencies

Environmental Process efficiencies

Project Development has been streamlined

- No Concept Statement or Preliminary Plans (6 months project development time saved)
- Able to let projects earlier = saved \$\$

Construction Oversight efficiencies

No Project End Dates or In-Active Obligations

Swap Project Development Milestones

- Programming
- Funding Agreements
- ⊖ ~~Concept Statement~~
- ⊖ ~~Preliminary Plans~~
- ⊖ ~~NEPA Clearance~~
- Environmental Permits/Forms
- Design Exceptions
- Check Plans
- Final Plans
- Project Development Certification

Swap Environmental Process

- Numerous Federal and State Laws apply to any project.
- LPAs are required to certify that all environmental and cultural resources processes have been followed.

Threatened and Endangered Species

- Fill out form, put in file, unless affecting T&E
- Cultural Resources
 - No Ground Disturbance – CRA Form
 - Ground Disturbance – CRE (desktop review)
- 404 Permit from USACE
 - Apply for Permit if necessary
- Project Development Certification (PDC)



Materials Requirements for Local Public Agencies

- Project Engineer will follow all materials inspection requirements per DOT specifications, particularly Materials I.M. 204.
- Swap projects as Category 4 in Materials I.M. 103
- Beams and Precast boxes inspected by DOT at Precast/prestress plants
- “Checking the Checker’s Checker” – no longer required
- Independent assurance samples will not be required
 - Side by side air tests, etc.
- DOT will still provide Materials Acceptance Report (LIMS) (in Doc Express)
- Agencies can still request sampling and testing, and Materials will perform inspection, but LPA will be charged per Materials I.M. 103 Appendix A

Construction & Project Close-out – Swap

- Pre-Construction Meetings – Invite Field Tech and Engineer
- Project inspection by LPA – just like a Federal-aid project, but less requirements to ensure compliance with (DBE, Davis-Bacon, Buy America)
- Change Orders reviewed & approved by Field Engineer
- Field Inspection by DOT at Field Completion stage or during construction
- Project Closeout
 - LPA performs Pre-audit (Checklist) – certain items no longer required
 - Final Forms Packet Checklist – certain items no longer required
- DOT Project Reviews – 1 per LPA every 3 years
 - A review is less in-depth than a Federal-aid audit.
 - LPA will be reviewed with new staff/engineer, hopefully around end of their first construction season.
 - Teaching moments/learning opportunities – may result in training recommended

Questions



Webinar Overview



Wrap-Up

Thank you for attending today's webinar

The BATIC Institute will post responses
to all questions received today on its website

The recorded webinar will also be available
on the BATIC Institute website:

www.financingtransportation.org

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