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1200 New Jersey Ave, SE
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ATTN: Docket No. FHWA-2023-0004

Re: Environmental review implementation funds provision of the Inflation Reduction Act

The American Society of Civil Engineers (ASCE) appreciates the opportunity to provide comments to the Federal Highway Administration (FHWA) on the section of the Inflation Reduction Act (IRA) pertaining to environmental review implementation funds. The IRA was a significant legislative package and ASCE welcomes the opportunity to share our perspective on the law's provisions pertaining to the important issue of environmental review. The input presented in this document is in response to a request for information (RFI) published by FHWA in the Federal Register on April 17th.

As the country's oldest engineering society, ASCE represents more than 150,000 civil engineers from the private sector, government, and academia. As the professionals who plan, design, construct, and maintain much of the nation's infrastructure, civil engineers are acutely aware of and affected by regulations that either facilitate or impede the expeditious and environmentally effective development of infrastructure. The provisions included in the IRA meant to improve the environmental review process can play an important role in expediting surface transportation projects that protect public safety and create economic opportunities.

Among the investments included in the IRA is the provision of \$100 million to FHWA, which is available until September 2026. These funds can be made available to eligible entities, such as states and metropolitan planning organizations, to support environmental reviews. They may also be used by FHWA to develop guidance, technical assistance, or training programs to facilitate an efficient and effective environmental review process. Because FHWA works with state and local government partners to ensure surface transportation projects are delivered safely and successfully, ASCE believes funds dedicated to the agency for facilitating environmental reviews can be helpful and effective.

Streamlining the project permitting process across infrastructure sectors while ensuring appropriate safeguards and protections are in place is a recommendation included on ASCE's 2021 *Report Card for America's Infrastructure*¹, on which the nation earned an overall "C-" grade. This means, on average, our

¹ <https://infrastructurereportcard.org/solutions/leadership-action/>

infrastructure is in mediocre condition. Adoption of this recommendation would result in greater clarity on regulatory requirements and cost savings for infrastructure owners. Additionally, reducing delays in the permitting process would facilitate the expansion and modernization of infrastructure and help raise the Report Card grades.

ASCE would like to thank FHWA for the opportunity to submit comments on the provisions of the IRA pertaining to the environmental review funds. We stand ready to answer any questions or lend additional input as the agency conducts this information collection process. For these comments, ASCE and its members would like to focus on **the importance of an efficient environmental review process and specific opportunities to improve the review process for surface transportation projects.**

Need for an efficient environmental review process

ASCE supports reforms to the review and permitting process that reduce delays and create a more efficient process to optimize these investments, while safeguarding environmental protections. ASCE believes the goal should be to allow critical infrastructure projects to proceed in a timely manner, without putting the environment at risk and without shortening the public input process. Unfortunately, our current process has become outdated and inefficient, delaying critical investments in our nation's infrastructure. Delays and changes in project scopes due to regulatory inefficiencies and uncertainties increase costs and adversely affect the economic, societal, and environmental benefits of the project.

ASCE supports policies that advance the development of resilient, sustainable infrastructure as well as policies and programs that help to mitigate the increasingly harsh effects of climate change. While ASCE strongly supports regulations that protect the environment from damage for current and future generations, inefficient review and permitting processes are often slowing down the very projects that are necessary to move our economy, improve quality of life, and protect public safety.

Project delays resulting from the current National Environmental Policy Act (NEPA) process will often lead to significant costs to taxpayers stemming from issues such as increases in labor and materials costs. According to a report² by the Texas A&M Transportation Institute based on example projects, delays were estimated to cost \$87,000 per month for a small project (such as reconstruction of a rural road), \$420,000 per month for a medium-sized project (such as widening of a semi-rural highway), and \$1.3 million per month for a large project (such as reconstruction of a highway in a large metro area).

Another issue related to an inefficient review and permitting process is time. A Council on Environmental Quality report³ on environmental impact statement (EIS) timelines illustrates this point. According to the report, the average EIS completion time for FHWA is over seven years, while the average completion time for the Federal Transit Administration is over five years.

These delays impacting projects across the nation are negatively affecting public safety and our economy and have the ability to hinder the investments made by the IRA and other major legislation. The IRA cannot reach its full potential in the upcoming years if it is taking over four years to get a project moving. Therefore, it is important to assist FHWA in increasing the efficiency of the environmental review process if this law and others are to be truly successful.

² <https://static.tti.tamu.edu/tti.tamu.edu/documents/0-6806-FY15-WR3.pdf>

³ https://ceq.doe.gov/docs/nepa-practice/CEQ_EIS_Timeline_Report_2020-6-12.pdf

Steps to improve the review process

ASCE has been a longtime advocate for a balanced approach to the NEPA process that streamlines the permitting and approval process for infrastructure projects, but not at the expense of a science-based evaluation and the determination of environmental impact. ASCE supports efforts to make the review and permitting process more efficient to ensure climate-ready infrastructure projects can move forward and are not unnecessarily or excessively delayed.

For FHWA's consideration, ASCE supports the following specific steps:

- The creation of strategies to expedite decision-making in the regulatory process for infrastructure development at the federal, state, and local levels. The implementation of infrastructure projects involves regulatory steps at all levels of government. ASCE supports collaboration between federal, state, and local agencies and the development of strategies that minimize the duplication of work and reduce delays. Minimizing duplicative work between government partners can facilitate the implementation of infrastructure projects in a timely manner and reduce wasted time for agencies.
- The use of a single NEPA review document for reviews and the designation of a lead agency to oversee the review and approval process for a project. Reforms such as the use of a single NEPA document and designation of a lead agency to oversee review and permitting can eliminate the duplication of work, promote interagency collaboration, and reduce interagency disputes. Concise and clear NEPA review documents will demand less time from the decision-makers who need to review them and will be more accessible from members of the public who are seeking information on a certain project.
- Time limits for completion of NEPA reviews on projects. NEPA requires involvement from federal agencies, and this broad framework has resulted in complaints that NEPA documents take too long to write and review. Time is a critical factor for infrastructure projects, as demonstrated by the CEQ report on the length of EIS timelines. Project review times that are equal to or longer than most reauthorization bills do not facilitate the efficient delivery of infrastructure projects. As recent federal legislation such as the IRA and the Infrastructure Investment and Jobs Act (IIJA) present new opportunities for our nation to repair and modernize infrastructure systems, ASCE supports time limits on reviews to avoid drawn-out regulatory processes that impede projects.
- Expanding categorical exclusions to include safety projects to correct situations where serious injury or loss of life have occurred. Categorical exclusions can trim months from a project's timeline without sacrificing environmental protection. For projects that have the potential to not only improve quality of life for communities but also save lives, categorical exclusions can make a significant difference. Safety is a fundamental principle of civil engineers' work, and roadway safety is a particularly pressing issue. The National Highway Traffic Safety Administration (NHTSA) estimates 42,795 people died in motor vehicle traffic crashes in 2022, representing a slight decrease of .3% from the 42,939 fatalities reported in 2021⁴. The expansion of categorical exclusions to include certain safety projects could make a positive impact on efforts to reduce the loss of life on America's roadways.

⁴ <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813428>

ASCE believes unnecessarily delaying projects and creating uncertainties in regulatory processes are harmful to efforts to protect public safety, maximize the investments included in recent legislation, and spur economic growth and job creation.

Conclusion

ASCE thanks FHWA for the opportunity to submit comments on the environmental review funds provision of the IRA. Reducing delays in the review and permitting process can help civil engineers work more efficiently to deliver safe and effective projects that improve quality of life for people and economic competitiveness for the nation as a whole. Addressing environmental review and permitting reform is a critical step toward building and maintaining national infrastructure systems fit for the 21st century. ASCE stands ready to answer any questions and looks forward to continuing to work with FHWA and the Administration on these issues that are vital for public safety and economic growth.