



**Promoting Resilient Operations for Transformative,
Efficient, and Cost-Saving Transportation (PROTECT)
Formula Program – Eligible Projects
Questions and Answers**

These Questions and Answers (Q&As) provide guidance on the eligible highway projects funded under the PROTECT Formula Program. *See* section 11405 of the Infrastructure Investment and Jobs Act (Pub. L. 117-58) (November 15, 2021), also known as the “Bipartisan Infrastructure Law” or “BIL.”

Updated August 16, 2023

Except for the statutes and regulations cited, the contents of this document do not have the force and effect of law and are not meant to bind the States or the public in any way. This document is intended only to provide information regarding existing requirements under the law or agency policies.

Question: In identifying eligible highway projects, the law refers to “highway projects eligible for assistance under Title 23, U.S.C.” What type of highway projects does this include?

Answer: PROTECT funds can be used on public roads for eligible highway projects identified in 23 U.S.C. 176. An eligible highway facility can be determined by looking at the definition of “highway” in 23 U.S.C. 101(a)(11). Under this definition, a highway project is (A) located on a road, street, or parkway, (B) includes right-of-way, a bridge, a railroad-highway crossing, a tunnel, a drainage structure including public roads on dams, a sign, a guardrail, and a protective structure, in connection with a highway, or (C) a portion of any interstate or international bridge or tunnel and the approaches thereto, the cost of which is assumed by a State transportation department, including such facilities as may be required by the United States Customs and Immigration Services in connection with the operation of an international bridge or tunnel. Upon determining the facility is eligible for funding, then PROTECT-eligible activities may be identified for that facility. If title 23 funds could be spent (or have been spent) for an eligible project on the highway, then the highway is eligible for PROTECT funds for eligible activities under that program.

Question: Are local roads and rural minor collectors eligible “highways” under the PROTECT Program?

Answer: Yes. PROTECT Formula Funds may be used for eligible purposes on a public road that is (1) a Federal-aid highway (as defined in 23 U.S.C. 101(a)(6)), or (2) other than a Federal-aid highway (including highways functionally classified as local roads or rural minor collectors). A “public road” means any road or street under the jurisdiction of and maintained by a public authority and open to public travel. (23 U.S.C. 101(a)(23)).