

Bicycle and Pedestrian Provisions of the Federal-aid Program

Section 217 of Title 23 of the U.S. Code calls for the integration of bicycling and walking into the transportation mainstream. More importantly, it enhances the ability of communities to invest in projects that can improve the safety and practicality of bicycling and walking for everyday travel.

In 1991, Congress passed landmark transportation legislation, the Intermodal Surface Transportation Efficiency Act (ISTEA), that recognized the increasingly important role of bicycling and walking in creating a balanced, intermodal transportation system.

The [National Bicycling and Walking Study](#), published by the U.S. Department of Transportation in 1994, translated this renewed interest in nonmotorized travel into two specific goals: to double the percentage of trips made by foot and bicycle while simultaneously reducing the number of crashes involving bicyclists and pedestrians by 10 percent.

Subsequent legislation provides the funding, planning, and policy tools necessary to create more walkable and bicycle-friendly communities.

A bicycle transportation facility is "a new or improved lane, path, or shoulder for use by bicyclists and a traffic control device, shelter, or parking facility for bicycles." The definition of a pedestrian includes not only a person traveling by foot but also "any mobility impaired person using a wheelchair." *23 USC Section 217 (j)(1)*

Contents

1. [Funding Sources for Bicycle and Pedestrian Projects](#)
 - Federal-aid Highway Program
 - Federal Transit Program
 - Highway Safety Programs
 - Federal/State Matching Requirements
2. [Planning for Bicycling and Walking](#)
3. [Policy and Program Provisions](#)
4. [Facility Design Guidance](#)
5. [Research, Special Studies, and Reports](#)
6. [Conclusion](#)

Funding Sources for Bicycle and Pedestrian Projects

Bicycle and pedestrian projects are broadly eligible for funding from almost all the major Federal-aid highway, transit, safety, and other programs. Bicycle projects must be "principally for transportation, rather than recreation, purposes" and must be designed and located pursuant to the transportation plans required of States and Metropolitan Planning Organizations.

Federal-aid Highway Program

National Highway System funds may be used to construct bicycle transportation facilities and pedestrian walkways on land adjacent to any highway on the National Highway System, including Interstate highways. *23 USC Section 217 (b)*

Surface Transportation Program (STP) funds may be used for either the construction of bicycle transportation facilities and pedestrian walkways, or nonconstruction projects (such as maps, brochures, and public service announcements) related to safe bicycle use and walking. TEA-21 added "the modification of public sidewalks to comply with the Americans with Disabilities Act" as an activity that is specifically eligible for the use of these funds. *23 USC Section 217 (a)*

Ten percent of each State's annual STP funds are set-aside for Transportation Enhancement Activities (TEAs). The law provides a specific list of activities that are eligible TEAs and this includes "provision of facilities for pedestrians and bicycles, provision of safety and educational activities for pedestrians and bicyclists," and the "preservation of abandoned railway corridors (including the conversion and use thereof for pedestrian and bicycle trails)." *23 USC Section 109 (a)(35)*

Another 10 percent of each State's STP funds is set-aside for the Hazard Elimination and Railway-Highway Crossing

programs, which address bicycle and pedestrian safety issues. Each State is required to implement a Hazard Elimination Program to identify and correct locations which may constitute a danger to motorists, bicyclists, and pedestrians. Funds may be used for activities including a survey of hazardous locations and for projects on any publicly owned bicycle or pedestrian pathway or trail, or any safety-related traffic calming measure. Improvements to railway-highway crossings "shall take into account bicycle safety." *23 USC Section 152*

Congestion Mitigation and Air Quality Improvement Program funds may be used for either the construction of bicycle transportation facilities and pedestrian walkways, or nonconstruction projects (such as maps, brochures, and public service announcements) related to safe bicycle use. *23 USC Section 217 (a)*

Recreational Trails Program funds may be used for all kinds of trail projects. Of the funds apportioned to a State, 30 percent must be used for motorized trail uses, 30 percent for nonmotorized trail uses, and 40 percent for diverse trail uses (any combination). *23 USC Section 206*

Provisions for pedestrians and bicyclists are eligible under the various categories of the Federal Lands Highway Program in conjunction with roads, highways, and parkways. Priority for funding projects is determined by the appropriate Federal Land Agency or Tribal government. *23 USC Section 204*

National Scenic Byways Program funds may be used for "construction along a scenic byway of a facility for pedestrians and bicyclists." *23 USC Section 162 (c)(4)*

Job Access and Reverse Commute Grants are available to support projects, including bicycle-related services, designed to transport welfare recipients and eligible low-income individuals to and from employment. *TEA-21 Section 3037*

High Priority Projects and Designated Transportation Enhancement Activities identified by Section 1602 of TEA-21 include numerous bicycle, pedestrian, trail, and traffic calming projects in communities throughout the country.

Federal Transit Program

Title 49 U.S.C. (as amended by TEA-21) allows the Urbanized Area Formula Grants, Capital Investment Grants and Loans, and Formula Program for Other than Urbanized Area transit funds to be used for improving bicycle and pedestrian access to transit facilities and vehicles. Eligible activities include investments in "pedestrian and bicycle access to a mass transportation facility" that establishes or enhances coordination between mass transportation and other transportation. *49 USC Section 5307*

TEA-21 also created a Transit Enhancement Activity program with a one percent set-aside of Urbanized Area Formula Grant funds designated for, among other things, pedestrian access and walkways, and "bicycle access, including bicycle storage facilities and installing equipment for transporting bicycles on mass transportation vehicles". *49 USC Section 5307(k)*

Highway Safety Programs

Pedestrian and bicyclist safety remain priority areas for State and Community Highway Safety Grants funded by the Section 402 formula grant program. A State is eligible for these grants by submitting a Performance plan (establishing goals and performance measures for improving highway safety) and a Highway Safety Plan (describing activities to achieve those goals). *23 USC Section 402*

Research, development, demonstrations and training to improve highway safety (including bicycle and pedestrian safety) is carried out under the Highway Safety Research and Development (Section 403) program. *23 USC Section 403*

Federal/State Matching Requirements

In general, the Federal share of the costs of transportation projects is 80 percent with a 20 percent State or local match. However, there are a number of exceptions to this rule.

- Federal Lands Highway projects and Section 402 Highway Safety funds are 100 percent Federally funded.
- Bicycle-related Transit Enhancement Activities are 95 percent Federally funded.
- Hazard elimination projects are 90 percent Federally funded. Bicycle-related transit projects (other than Transit Enhancement Activities) may be up to 90 percent Federally funded.
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Individual Transportation Enhancement Activity projects under the STP can have a match higher or lower than 80 percent. However, the overall Federal share of each State's Transportation Enhancement Program must be 80 percent.

- States with higher percentages of Federal Lands have higher Federal shares calculated in proportion to their percentage of Federal lands.
- The State and/or local funds used to match Federal-aid highway projects may include in-kind contributions (such as donations). Funds from other Federal programs may also be used to match Transportation Enhancement, Scenic Byways, and Recreational Trails program funds. A Federal agency project sponsor may provide matching funds to Recreational Trails funds provided the Federal share does not exceed 95 percent.



Planning for Bicycling and Walking

States and Metropolitan Planning Organizations (a planning agency established for each urbanized area of more than 50,000 population) are required carry out a continuing, comprehensive, and cooperative transportation planning process that results in two products.

1. A long range (20 year) transportation plan provides for the development and integrated management and operation of transportation systems and facilities, including pedestrian walkways and bicycle transportation facilities. Both State and MPO plans will consider projects and strategies to increase the safety and security of the transportation system for nonmotorized users.
2. A Transportation Improvement Program (TIP) contains a list of proposed federally supported projects to be carried out over the next three years. Projects that appear in the TIP should be consistent with the long range plan.

The transportation planning process is carried out with the active and on-going involvement of the public, affected public agencies, and transportation providers.

Bicyclists and pedestrians must be given due consideration in the planning process (including the development of both the plan and TIP) and that bicycle facilities and pedestrian walkways shall be considered, where appropriate, in conjunction with all new construction and reconstruction of transportation facilities except where bicycle use and walking are not permitted. Transportation plans and projects must also consider safety and contiguous routes for bicyclists and pedestrians. Safety considerations may include the installation of audible traffic signals and signs at street crossings. *23 USC Section 217 (g)*



Policy and Program Provisions

State Bicycle and Pedestrian Coordinators

Each State is required to fund a Bicycle and Pedestrian Coordinator position in its State Department of Transportation to promote and facilitate the increased use of nonmotorized transportation, including developing facilities for the use of pedestrians and bicyclists and public educational, promotional, and safety programs for using such facilities. Funds such as the CMAQ or STP may be used for the Federal share of the cost of these positions. In most States, the Coordinator position is a full-time position with sufficient responsibility to deal effectively with other agencies, State offices, and divisions within the State DOT.

Protection of Nonmotorized Transportation Traffic

The Secretary shall not approve any project or take any regulatory action that will result in the severance of an existing major route, or have an adverse impact on the safety of nonmotorized transportation traffic and light motorcycles, unless such project or regulatory action provides for a reasonable alternate route or such a route already exists.

Users of a Bicycle and Pedestrian Facility

Motorized vehicles are not permitted on trails and pedestrian walkways except for maintenance purposes, motorized wheelchairs, and--when State or local regulations permit--snowmobiles and electric bicycles. Electric bicycles are defined for the purposes of this Act as a bicycle or tricycle with a low-powered electric motor weighing under 100 pounds with a top motor-powered speed not in

excess of 20 miles per hour.



Facility Design Guidance

The design of bicycle and pedestrian facilities is determined by State and local design standards and practices, many of which are based on publications of the American Association of State Highway and Transportation Officials (AASHTO) such as the *Guide to the Development of Bicycle Facilities* and *A Policy on Geometric Design of Streets and Highways*.

The Federal Highway Administration developed guidance on the various approaches to accommodating bicycles and pedestrian travel, in cooperation with AASHTO, the Institute of Transportation Engineers, and other interested organizations. The guidance included recommendations on amending and updating AASHTO policies relating to highway and street design standards to accommodate bicyclists and pedestrians.

Bridges

When a highway bridge deck-on which bicyclists are permitted or may operate at each end of the bridge-is being replaced or rehabilitated with Federal funds, safe accommodation of bicycles is required unless the Secretary of Transportation determines that this cannot be done at a reasonable cost. *23 USC Section 217 (e)*

Railway-Highway Crossings

When improvements to at-grade railway-highway crossings are being considered, bicycle safety must be taken into account. *23 USC Section 130*



Research, Special Studies, and Reports

TEA-21 continues funding for highway safety research (Section 403), the National Cooperative Highway Research Program (NCHRP) and Transit Cooperative Research program (TCRP), all of which have funded research into pedestrian and bicycle issues. In addition, the legislation creates a number of new research areas, special studies, reports, and grant programs including:

- A new Surface Transportation-Environment Cooperative Research Program is established to evaluate transportation control measures, improve understanding of transportation demand factors, and develop performance indicators that will facilitate the analysis of transportation alternatives.
- \$500,000 is made available for the development of a national bicycle safety education curriculum.
- \$500,000 per year is made available for grants to a national not for profit organization engaged in promoting bicycle and pedestrian safety to operate a national clearinghouse, develop informational and education programs, and disseminate techniques and strategies for improving bicycle and pedestrian safety.
- \$200,000 is made available for a study of the safety issues attendant to the transportation of school children to and from school and school-related activities by various transportation modes. TRB is identified as the manager of the study, which must be done within 12 months and the panel conducting the study must include bicycling organizations. (Section 4030)
- A study of transit needs in National Parks and related public lands includes a requirement that the study assess the feasibility of alternative transportation modes. (Section 3039)
- The Bureau of Transportation Statistics is charged with establishing and maintaining a transportation database for all modes of transportation that will include "information on the volumes and patterns of movement of people, including local, interregional, and international movements, by all modes of transportation (including bicycle and pedestrian modes) and intermodal combinations, by all relevant classifications. (Section 5109)



Conclusion

Bicycling and walking are important elements of an integrated, intermodal transportation system. Constructing sidewalks, installing bicycle parking at transit, teaching children to ride and walk safely, installing curb cuts and ramps for wheelchairs, striping bike lanes and building trails all contribute to our national transportation goals of safety, mobility, economic growth and trade, enhancement of communities and the natural environment, and national security.

All of these activities, and many more, are eligible for funding as part of the Federal-aid Highway Program. Federal legislation clearly confirms the place of bicycling and walking in the mainstream of transportation decision-making at the State and local level and enables communities to encourage more people to bicycle and walk safely.



TOP

For More Information

1. The Transportation Equity Act for the 21st Century, PL-105-550. Available from the Government Printing Office or on-line at www.fhwa.dot.gov/legregs/legislat.html
2. Title 23, United States Code. Available from the Government Printing Office or your local library system. www.fhwa.dot.gov/legregs/legislat.html
3. Code of Federal Regulations, Part 652. Available from the Government Printing Office or your local library system.



TOP

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