

INFORMATION: Eligibility of Historic
Preservation Work for Transportation
Enhancement Funding (ORIGINAL SIGNED BY T. PTAK 6/06/95)

Associate Administrator
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On April 24, 1992, soon after the ISTEA was passed, we issued a guidance memorandum on transportation enhancement activities. Among other subjects, this guidance memorandum covered the thought process to apply in determining whether or not activities qualified to be funded with the transportation enhancement set-aside funds. At the time that we issued the memorandum, we contemplated that additional guidance would be provided after our collective experience allowed us to evaluate the more difficult issues that were arising. The eligibility of historic preservation work on properties that are not historic transportation buildings, facilities, and structures is one such issue. The purpose of this memorandum is to provide field offices with supplemental guidance in this limited area of transportation enhancement funding.

Elibility for Transportation Enhancement Funding

The general philosophy of our original guidance memorandum was to allow applicants considerable latitude in applying the language of the statute to specific cases in determining their eligibility for transportation enhancement funds. We did however, stress that qualifying activities must fit within the list of 10 categories found in the statutory definition of transportation enhancement activities, and that they must have a direct relationship to the intermodal transportation system. Our continuing observation of enhancement funding decisions suggests that in the case of non-transportation historic properties, the concept of direct relationship has been very widely interpreted. For example, some have interpreted it very broadly, allowing

virtually any historic property to be rehabilitated using transportation enhancement funds. Others have interpreted this language more narrowly, requiring a substantial transportation linkage in order for an undertaking to be considered eligible. We believe this latter interpretation reflects the legislative intent.

State Project Selection Criteria

In keeping with the flexibility afforded under the ISTEA, States have adopted a variety of processes for determining how to use the transportation enhancement set-aside funds. Some States utilize numerical point-based systems. In some such systems, the strength of the relationship to the transportation system is one of the selection criteria and points are assigned to projects based on the strength of the relationship. Conceivably a project that scores high in other criteria, but scores low or has no relationship to transportation, could be selected for funding using such systems.

In accordance with the above guidance on eligibility, a project must first meet the test of a substantial relationship to transportation in order to be considered for funding. Therefore while States have discretion to retain "transportation relationship" as a part of their numerical scoring systems, it should be viewed simply as assisting in selecting projects from a group of projects all of which have a substantial relationship to transportation.

Grandfathering of the Eligibility Guidance

We recognize that the States and FHWA field offices have been operating in good faith based on the general guidance that FHWA has issued on transportation enhancements. To minimize the potential for reversing funding determinations, this supplemental guidance will not apply to projects for which the State DOT has already notified project sponsors of a decision to fund the proposed work.

We appreciate the cooperation of all of the participants in the transportation enhancement process in making this important part of our program work, despite the difficulties inherent in adapting the highway program to implement a group of non-traditional activities. There is strong evidence from around the country that complications are being worked out. We are optimistic that this

new guidance will further assist those making the difficult decisions on project eligibility.

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