

Before the Committee on Commerce, Science, and Transportation

U.S. Senate

For Release on Delivery
expected at
9:30 a.m. EDT
Tuesday
July 21, 1998
Report Number: MA-1998-179

**Awarding Discretionary Funds in the
U.S. Department of Transportation**

Statement of

**The Honorable Kenneth M. Mead
Inspector General
U.S. Department of Transportation**



Mr. Chairman and Members of the Committee:

We appreciate the opportunity to testify today. On June 12, 1998, we reported on the process used by Department of Transportation (DOT) officials to make discretionary funding decisions. Our report, which we submit with our testimony today for the record, noted that even though the Operating Administrations have developed criteria and processes for identifying high priority projects, decision-makers do bring other factors into consideration when selecting projects.

Our testimony today addresses four issues concerning discretionary funds:

- How discretionary funding decisions are made within DOT.
- Other factors that are considered in selecting lower priority projects.
- The impact of the Transportation Equity Act for the 21st Century.
- Actions underway and needed to improve DOT's selection process.

Before discussing each of these issues, we will briefly summarize our work.

Summary

In FY 1997, DOT awarded \$27.8 billion in Federal financial assistance, including \$3.2 billion (12 percent) in discretionary funds. Ninety-nine percent of the discretionary funds were administered by three of DOT's Operating Administrations: Federal Highway Administration (FHWA), Federal Aviation Administration (FAA), and Federal Transit Administration (FTA). Our work focused on \$910 million in eight FHWA programs and FAA's Airport Improvement Program. We also reviewed FTA's process for identifying \$1.1 billion in potential discretionary projects for congressional consideration.

We found that all three Operating Administrations have developed their own criteria and processes for selecting discretionary projects, and that this has resulted in inconsistent approaches. For example, while FHWA and FAA identified relative priorities of projects, FTA did not do so.

At FHWA and FAA, officials were following their processes for identifying and prioritizing projects. However, 59 percent of the FHWA awards and 15 percent of the FAA awards were for projects not identified as the highest priority. The rationale for these decisions was neither explained nor documented.

Although Congress has given DOT flexibility in selecting projects to receive discretionary funds, DOT has an obligation to ensure the best use of taxpayers'

dollars, and therefore should generally select for funding those projects representing the highest national priority. We recognize valid reasons and factors can exist for funding projects that do not receive the highest ranking, and a degree of flexibility must exist in the decision-making process. Without this flexibility, undesirable results, such as rewarding infrastructure neglect or inefficient infrastructure management, may occur. However, we believe it is in the interest of good government and stewardship over taxpayer dollars that whenever an Operating Administration deviates from established criteria for funding high priority projects, the rationale supporting this decision be clearly documented.

The recently enacted "Transportation Equity Act for the 21st Century" (TEA-21) increases DOT's discretionary funding for Fiscal Years 1999 through 2003. Based on information provided by the Operating Administrations, DOT's discretionary funding programs will receive \$16.7 billion during this period. The legislation also requires the Secretary to establish and publish criteria for all FHWA discretionary programs, and to evaluate and rate FTA New Start projects as they advance through the various stages of development. The recommendations contained in our report are consistent with this legislation.

Specifically, we recommended that the Secretary develop appropriate implementing guidance for all DOT Operating Administrations on allocating discretionary funds. At a minimum, this guidance should require the funding of the highest national priority projects, and documentation of the rationale used to support decisions to fund lower priority projects. The Office of the Secretary agreed with the concept of a consistent Departmentwide policy, but noted that recommendations for appropriate action would not be developed until the end of the fiscal year. We think these policy changes should be in force and effective by October 1, 1998. In our opinion, this is an excellent candidate for the Secretary's "ONE DOT" initiative.

Transportation infrastructure Mega-projects, i.e., those projects generally over \$1 billion, are often financed at least in part with discretionary funds. We are reviewing many of these projects to identify the current project cost and schedule status, determine the reasonableness of data reported by the Operating Administrations, and identify potential financial and schedule risks. A significant benefit of these reviews is identifying practices that can be applied to other ongoing infrastructure projects.

For example, in April 1998, we issued a report on the Central Artery/Ted Williams Tunnel construction project in Boston, Massachusetts. This is the largest transportation infrastructure project in the country with an estimated cost of \$10.8 billion. In this report, we recommended that the Secretary of Transportation determine the need for guidance concerning interest expenses and costs and credits

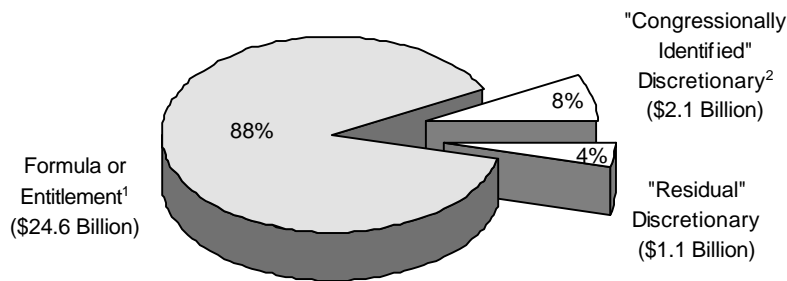
from owner-controlled insurance in the project cost estimates. Depending on the treatment of these costs, the estimated project costs can be significantly distorted. The Department's response to these recommendations is also not expected until the end of the fiscal year.

What Are Discretionary Funds?

For purposes of our review, we defined "discretionary" funds as all Federal financial assistance, except funds allocated by formula or other entitlement processes, for distribution to states, municipalities, and other eligible entities. Included in our definition of discretionary funds are "demonstration projects" and other projects specifically identified in DOT's Appropriations Act and congressional reports. Also included are those funds for which Congress relies on the Secretary of Transportation, or the Operating Administrators, to identify and select projects that represent the best use of taxpayers' dollars.

As the following chart shows, about 12 percent, or \$3.2 billion, of DOT Federal financial assistance during FY 1997 represented discretionary funding.

**DOT FEDERAL FINANCIAL ASSISTANCE
FY 1997 AWARDS TOTALING \$27.8 BILLION**



¹ Includes programs allocated by legislative or administrative formula, such as FTA's Fixed Guideway Modernization Program.

² Includes projects specifically identified in DOT's Appropriations Act or congressional reports, such as FHWA's Demonstration Projects identified in the Intermodal Surface Transportation Efficiency Act.

About \$2.1 billion was for demonstration and other projects identified in DOT's Appropriations Act or congressional reports. DOT has no discretion in how these projects are selected. The remaining \$1.1 billion represents projects that were selected at the discretion of DOT.

Because funding decisions for FY 1998 had not been made at the time of our review, we focused on FY 1997 discretionary funding awards. For our review, we excluded research and other relatively small programs, and focused on about \$910 million in eight FHWA programs and FAA's Airport Improvement Program. We also reviewed FTA's process for identifying \$1.1 billion in potential discretionary projects for congressional consideration.

How Are Discretionary Funding Decisions Made Within DOT?

The Secretary has delegated the authority to allocate residual discretionary funds to Operating Administrations that manage grant programs. Congress and the Secretary rely on the Operating Administrations to identify projects that represent the best use of taxpayers' dollars. Congress gives DOT flexibility for awarding these residual discretionary funds, so DOT's Operating Administrations can select essentially any project that meets eligibility requirements.

Each Operating Administration has developed its own criteria and process for selecting discretionary projects. This has resulted in inconsistent approaches. These criteria and processes were specifically related to each funding program, and were being followed by the Operating Administrations.

Federal Transit Administration (FTA) identifies potential discretionary projects for congressional consideration, but does not identify relative priorities for its two major discretionary programs, New Fixed Guideway Systems ("New Starts") and Bus and Bus-Related Facilities. For FY 1997, FTA identified 17 New Start projects with funding requirements of \$800 million. Congress provided \$644 million for these 17 projects, and \$173 million for 36 additional projects. In addition, FTA provided the Senate Appropriations Committee a listing of 74 pending Bus projects with projected costs of \$294 million. Congress funded 138

projects, at \$380 million. Of the 138, 108 were not included on the FTA list and 30 were on the list.

Federal Highway Administration (FHWA) has developed criteria, and follows its established process for identifying and prioritizing projects for discretionary funding. However, as shown in the chart below, \$142 million (59 percent) of the \$241 million awarded in FY 1997 were for projects other than those identified by FHWA’s staff as the highest priority (“most promising”). FHWA did not have documentation explaining its rationale for selecting lower priority (“promising” and “qualified”) projects.

**FHWA Fiscal Year 1997
Discretionary Funds Ranking and Awards
By Category**

Category	Ranking (\$000)	Awards (\$000)	Projects Awarded	Percent of Funds Awarded
Most Promising	\$920,385	\$98,650	137	41%
Promising	\$1,521,854	\$63,240	21	59%
Qualified *		\$79,190	35	
TOTAL	\$2,442,239	\$241,080	193	100%

* Includes two projects submitted after the deadline that were unable to be categorized. Also includes seven projects classified as “administratively not qualified,” i.e., projects statutorily eligible for discretionary bridge funding, but 1) had requested fourth quarter funding, 2) were high cost projects, or 3) were previously fully funded with apportioned bridge funds. Projects were funded in FY 1997 from this category because funds remained in the program after higher priority projects were funded.

Source: OIG analysis of FHWA FY 1997 discretionary funding allocation plans.

An example of funding a lower priority project is the Ferry Boat discretionary program. In it, the Administrator did not fund a \$1 million project, rated by FHWA staff as a high priority project. This project was intended to replace a deteriorating ferry transfer bridge and pier structure, and bring them into compliance with the Americans with Disabilities Act. Currently, passengers in wheelchairs cannot get from the transfer bridge to the ferry boat without assistance. During our visit to the facility, we noticed the concrete and steel on the ferry transfer bridge were severely cracked, and the timbers on the pier were in poor condition.

Within the same region, FHWA awarded funds for two lower priority projects totaling \$1.3 million to establish a new ferry service. One project was for a ferry docking facility, and the other was for the construction of two ferry vessels. FHWA officials stated these projects were low priority (“qualified” category) because they were for new service, and included significant unknowns concerning ridership and insurance requirements. During our site visit, FHWA Division and state officials stated they were not certain the ferry service will be viable because the trip around the waterway is 15 minutes by car in traffic, 26 minutes by bus, and 39 minutes by ferry. We asked the FHWA Executive Director why the most

promising project was not selected, while the promising project was selected. He indicated he could not provide the basis for that decision.

Our results are similar to those presented by GAO in a recent report.¹ GAO found that during FYs 1995, 1996, and 1997, FHWA “. . . relied more on its discretion and less on the program staff’s input and analyses than it did under an earlier process . . .” used during FYs 1992, 1993, and 1994. Under the new process, GAO found that FHWA selected 73 percent of the projects categorized as “most promising” or “promising.” Under the older system, FHWA “. . . selected over 98 percent of all projects that the program staff recommended.”

Federal Aviation Administration (FAA) also has developed criteria and was following its established process for identifying and prioritizing projects for discretionary funding. However, we found regional offices, with the Associate Administrator’s approval after consultation with Headquarters staff, directed funds to lower priority projects within their region. The replacement projects were not the next highest national priority on the Airport Capital Improvement Plan. As shown in the chart below, FAA allocated \$100 million, or 15 percent of its \$669 million in FY 1997 discretionary funds, to lower priority projects. Headquarters’ approval of the replacement projects was generally communicated to the regional

¹ GAO Report on Review of Project Selection Process for Five FHWA Discretionary Programs, dated November 7, 1997.

offices by telephone and not documented. As a result, we could not review the rationale behind these decisions.

**FAA Fiscal Year 1997
Discretionary Funds Ranking and Awards
By Category**

Category	Ranking (\$000)	Awards (\$000)	Projects Awarded	Percent of Funds Awarded
High Priority	\$629,638	\$569,100	300	85%
Lower Priority	\$456,893	\$99,930	62	15%
TOTAL	\$1,086,531	\$669,030	362	100%

Source: OIG analysis of FAA FY 1997 Airport Improvement Program data.

For example, in one region, a national priority runway reconstruction project went unfunded in FY 1997. The airport had received bids and was ready to award a contract for the \$3.5 million project to reconstruct sections of two deteriorating runways, which required frequent sweepings to remove debris. Within the same region and within the same funding category, a low priority project to extend a taxiway was funded for \$742,000. Although this amount would have partially funded the higher priority project, regional officials chose to fund the lower priority project, even though the high national priority project remained unfunded. In other regions, but within the same funding category, 11 lower national priority

projects totaling \$5.4 million were funded, including a project to rehabilitate and realign a taxiway for \$1.1 million, and another to extend a taxiway for \$418,000.

We also found that FAA continues to experience problems with airport sponsors and airports not funding their highest priority projects with entitlement funds prior to competing for discretionary funds. According to FAA's Airport Improvement Program Handbook, ". . . field offices should encourage sponsors to use entitlement funds for the highest priority projects under consideration at the airport." Contrary to this policy, some airport sponsors and airports submitted applications to FAA requesting discretionary funds for high priority projects while planning to use entitlement funds for low priority projects that would not favorably compete for discretionary funds in the national priority system. This practice created inequity across the country, specifically when other sponsors are abiding by FAA's policy. For example, a state requested \$700,000 in discretionary funding for a high priority security fencing project while it was planning to use \$900,000 in entitlement funds for a low priority project to rehabilitate a terminal apron.

What Other Factors Are Considered in Selecting Lower Priority Projects?

Even though the Operating Administrations have developed criteria and processes for identifying high priority projects, decision-makers do bring other factors into

consideration for final project selection. These factors may include geographic distribution and prior funding. Without flexibility, undesirable results, such as rewarding inefficient or ineffective infrastructure management, may occur. For example, a state, local government, transit agency, or airport that fails to maintain its transportation systems could have many urgent replacement needs, thereby receiving a disproportionate amount of funding.

There remains, however, an overriding need to fund the highest priority projects nationally. Although Congress has given DOT flexibility in selecting projects to receive discretionary funds, DOT has an obligation to ensure the best use of taxpayers' dollars, and therefore should generally select for funding those projects representing the highest national priority. When the highest national priority projects are not funded, a more thorough review and analysis of project alternatives is necessary to support these decisions. As we previously noted, these decisions to fund lower priority projects, generally, have not been documented by the Operating Administrations. By documenting the rationale used to support decisions to fund lower priority projects while higher priority projects remain unfunded, the decision-makers can ensure these alternative project selections are the result of informed analysis and represent the best use of taxpayers' dollars.

What Impact Will TEA-21 Have on Discretionary Funding?

On June 9, 1998, the President signed the “Transportation Equity Act for the 21st Century” (TEA-21). This legislation includes increases in discretionary funding for Fiscal Years 1999 through 2003. Based on the Operating Administrations’ estimates, these programs will receive \$16.7 billion during this period. As shown in the chart below, both “residual” discretionary funding for FHWA and funding for FTA’s two major “congressionally identified” discretionary programs will increase during this period. In addition to this legislation, FAA’s residual discretionary funding increased from \$669 million in FY 1997 to over \$710 million in FY 1998.

**Selected Discretionary Funds
Included in TEA-21
(\$ millions)**

Category	Fiscal Year				
	1999	2000	2001	2002	2003
FHWA “Residual” Discretionary Programs	\$822	\$1,049	\$1,066	\$1,104	\$1,168
FTA “Congressessionally Directed” Discretionary (New Starts and Bus Programs)	\$2,054	\$2,181	\$2,308	\$2,435	\$2,552

The legislation also requires the Secretary to establish and publish criteria for all FHWA discretionary programs. The Secretary is to report quarterly to the Congress on those projects selected for discretionary funding and how the projects were selected based on the criteria. In addition, the legislation requires FTA to evaluate and rate New Start projects as they advance through the various stages of

development. Projects will be subjected to a formal rating system (highly recommended, recommended, and not recommended) in order to receive FTA approval for advancing from preliminary engineering to final design and construction. FTA is currently preparing regulations to implement the New Starts provisions of TEA-21. The improvements recommended in our June 12, 1998, report are consistent with this legislation.

What Improvements Are Needed and Underway?

As a result of our work, we recommended two actions to make more consistent and effective use of discretionary funds. Our first recommendation was for the Secretary of Transportation to establish a Departmentwide policy for allocating discretionary funds. In our opinion, this is an excellent candidate for the Secretary's "ONE DOT" initiative. At a minimum, this guidance should require:

- The funding of the highest national priority projects.
- Documentation of the rationale used to support decisions to fund lower priority projects, while higher priority projects remain unfunded. This documentation should promote a more thorough review and analysis of project alternatives.

The Office of the Secretary agreed with the concept of a consistent Departmentwide policy for selecting discretionary projects, but noted that recommendations for appropriate action would not be developed until the end of the fiscal year. We think these policy changes should be in force and effective by October 1, 1998.

Our second recommendation was for FAA to intensify its review of all project submissions and develop appropriate procedures to lower the ranking of projects submitted by airport sponsors and airports that use their entitlement funds for low priority projects. FAA officials verbally indicated they concur with this recommendation, however, they have not provided a specific implementation plan.

As noted earlier, FTA is preparing regulations to reflect the New Starts provisions of TEA-21. In FHWA, the FY 1998 process has not been finalized, as FY 1998 project selection was dependent on reauthorization of programs. The Administrator advised us that he intends to change the selection process for FY 1998, and will place considerable reliance on staff recommendations. As a result of these changes, the Administrator anticipates the majority of project selections will come from the highest priority category. However, he indicated that discretion will be used to provide balance, fairness, and equity. Project submissions for FY 1998 are expected by September 1, 1998.

FAA has revised its formula for identifying national priority projects to more closely rank projects as originally intended. In addition, once final project selections are made by Headquarters from its list of national priority projects, any deviations will require regional letters of justification approved by Headquarters. In the future, the FAA Administrator will be informed of discretionary funding decisions, however, the Associate Administrator for Airports will continue to make these decisions.

OIG Continuing Oversight

The OIG continues oversight of transportation infrastructure Mega-projects, i.e., those projects generally over \$1 billion, after grants have been awarded. We are doing separate reviews of Mega-projects to identify the current project cost and schedule status, determine the reasonableness of data reported by the Operating Administrations, and identify potential financial and schedule risks. A significant potential benefit of our oversight of these projects is to identify lessons learned. These lessons, if exported to other ongoing infrastructure projects, can yield significant economies.

For example, in April 1998, we issued a report on the financing for the Central Artery/Ted Williams Tunnel construction project in Boston, Massachusetts, the

largest transportation infrastructure project in the country with an estimated cost of \$10.8 billion. In our report, we recommended that the Secretary of Transportation determine the need for departmental guidance concerning the inclusion of the costs and credits from owner-controlled insurance, and interest expense, in the project cost estimates. Without the inclusion of interest paid, the project costs are significantly distorted. Departmental action in response to these recommendations is also not expected until the end of the fiscal year.

Mr. Chairman and members of the committee, this concludes our statement.

I would be pleased to answer questions.