

HIGHWAY SAFETY IMPROVEMENT PROGRAM Questions and Answers

The Safe, Accountable, Flexible, Efficient Transportation Equity Act, A Legacy for Users (SAFETEA-LU; Public Law 109-59) establishes a new Highway Safety Improvement Program (HSIP) that is structured to make significant progress in reducing highway fatalities and serious injuries. A considerable increase in funding is provided for the HSIP that is nearly double what was available in TEA-21. States will be required to develop and implement a Strategic Highway Safety Plan (SHSP) that involves a comprehensive, data driven approach to highway safety. The HSIP also includes set aside funds to improve safety on rural roads and at railway-highway crossings. This initial set of Questions and Answers has been prepared by the FHWA Office of Safety to outline overall provisions and address key issues; additional Q&As will be prepared as other issues arise or further clarification is appropriate.

Highway Safety Improvement Program

1. What are the funding levels for the HSIP and are there any sub-allocations for specific purposes?

The “new” HSIP is implemented by Section 1401 of SAFETEA-LU, which establishes a new Section 148 as part of Title 23 of the United States Code (23USC148). Authorized funding levels for the new HSIP are as follows:

FY 2006	\$1,235,812,000
FY 2007	1,255,209,322
FY 2008	1,275,929,067
FY 2009	1,296,474,396

Under TEA-21, States received an average of nearly \$662 million per year under the previous HSIP provisions. The average for the next four years under SAFETEA-LU will be \$1.265 billion, nearly twice the amount under TEA-21.

Section 148 establishes sub-allocations (“set asides”) for two specific purposes:

- 1) Highway-Rail Grade Crossings: \$20,000,000 is to be set aside each fiscal year (Fiscal years 2006 – 2009) from 23USC148 for the elimination of hazards and the installation of protective devices at highway-rail grade crossings (projects eligible under 23USC130.)
- 2) High Risk Rural Roads: \$90,000,000 each fiscal year (Fiscal years 2006 – 2009) for construction and operational improvements on high-risk rural roads.

2. When does the new Highway Safety Improvement Program become effective?

The new program will become effective on October 1, 2005, the beginning of FY 2006.

3. Within the HSIP, what safety elements are “sun setting” and which are emerging?

The most significant change is the elevation of the HSIP as a new “core funding” program administered by FHWA, defined by 23USC148. This new section replaces the previous 23USC152 (hazard elimination program), and will incorporate hazard elimination program elements as well as establish eligibility for additional types of highway safety improvement projects. As part of the new HSIP, each State’s apportionment of HSIP funds is subject to a set aside for construction and operational improvements on high-risk rural roads and for railway-highway crossings.

4. How does the new HSIP differ from the old HSIP?

The “new” HSIP (23USC148) is established as an FHWA “core” program with separate funding. Prior to SAFETEA-LU, States were required to carry out a highway safety improvement program to reduce the number and severity of highway-related crashes and to decrease the potential for crashes on all highways. The requirements for the previous HSIP is specified in the *Code of Federal Regulations*, Title 23, Part 924, were to consist of components for planning, implementation, and evaluation of safety programs and projects. Several categorical safety programs, including the Hazard Elimination Program and the Highway-Rail Grade Crossing Program, provided funding for the implementation of countermeasures. Under TEA-21, these programs were funded as a set-aside from Surface Transportation Program (STP) funds.

The new HSIP is eligible for additional funds from the Equity Bonus program, but HSIP funds are now subject to lapse. Funds are apportioned through a formula based on each State’s share of lane miles and vehicle miles traveled on Federal-aid highways and fatalities on the Federal-aid system in each State. The new HSIP requires a State transportation department to develop a Strategic Highway Safety Plan (SHSP) with a process that is data-driven, comprehensive, and includes consultation with other key safety stakeholders in the State. Also new is the sub-allocation (set-aside) within each State for construction and operational improvements on High Risk Rural Roads.

5. Does the new Highway Safety Improvement Program provide “dedicated” Obligation Authority?

No. The new Highway Safety Improvement Program is a “core” program in the same way that the National Highway System, the Surface Transportation Program, and the Interstate Maintenance Program are “core” programs. The Obligation Authority issued to a State (with certain exceptions) may be utilized at the State’s discretion for any core program with sufficient unobligated Contract Authority.

6. How long will the States have to obligate their highway safety funds before they lapse?

States will have the remainder of the fiscal year during which funds are apportioned plus 3 fiscal years to obligate their highway safety funds before they lapse. For example, FY 2006 HSIP funds apportioned to the States would lapse if not obligated by September 30, 2009.

7. What projects are eligible under the new HSIP?

To qualify as a highway safety improvement project eligible for funding under the new HSIP (23USC148), a

project must be described in the State strategic highway safety plan and correct or improve a hazardous road location or feature, or address a highway safety problem. Projects eligible under the previous Section 152 and Section 130 remain eligible under the new HSIP. In addition, the following have been specifically included as eligible highway safety improvement projects and are, therefore, eligible for HSIP funding:

- 1) The conduct of a model traffic enforcement activity at a railway-highway grade crossing;
- 2) Safety-conscious planning;
- 3) Improvement in the collection and analysis of crash data;
- 4) Planning, integrated interoperable emergency communications equipment, operational activities, or traffic enforcement activities (including police assistance) relating to workzone safety;
- 5) The addition or retrofitting of structures or other measures to eliminate or reduce accidents involving vehicles and wildlife;
- 6) Construction and operational improvements on high-risk rural roads;
- 7) Improvements for safety of the disabled;
- 8) Installation and maintenance of signs at pedestrian-bicycle crossings and in school zones.

8. Section 1401 states that “other funds” can be used for safety improvements. To what “other funds” does this refer? Does this mean that IM, STP and NHS funds can be used on local and rural minor collectors, as HSIP funds can?

HSIP funds can be used on any public road or publicly owned bicycle or pedestrian pathway or trail, except for those funds specifically set-aside for high risk rural roads and railway-highway crossings. This provision of SAFETEA-LU encourages States to address the full scope of their safety needs and opportunities on all roadway categories by using funding sources such as Interstate Maintenance (IM), Surface Transportation Program (STP) and National Highway System (NHS) funds, in addition to HSIP funds. However, the basic eligibility requirements of these funding sources do not change; e.g., NHS funds can be used for safety-related construction projects on National Highway System routes, but not on local roads or rural minor collectors. Similar eligibility requirements for STP & IM funds also must be recognized. In addition, safety belt performance grants under section 2005 may be used for infrastructure safety projects after the State has met the \$1 million threshold for behavioral safety expenditures.

9. What is FHWA’s role in approving a State’s HSIP?

As part of the FHWA’s oversight and stewardship responsibilities, the FHWA Division Office in each State must assure that the HSIP process carried out in each State meets the requirements stated in Section 148.

10. What are the reporting requirements under the new HSIP?

Three reports are specified in Section 148:

- The Secretary is required to submit a biennial report to Congress on the Highway-Rail Grade Crossings Program under the requirements specified in Section 130(g) of Title 23. The first report to Congress is due on April 1, 2006.
- The States are required to submit an annual report to the Secretary, which will be posted on the

Department of Transportation's web site, that describes at least 5 percent of locations identified by the State that exhibit the most severe safety needs. This report must contain an assessment of potential remedies to the locations identified, estimated costs associated with these remedies, and impediments to implementation other than cost associated with those remedies.

- The States are required to submit a report to the Secretary that describes the progress being made to implement highway safety improvement projects under Section 148, assesses the effectiveness of these improvements, and describes the extent to which the improvements contribute to the goals of:
 - reducing the number of fatalities on roadways;
 - reducing the number of roadway-related injuries;
 - reducing the occurrences of roadway-related crashes;
 - mitigating the consequences of roadway-related crashes; and
 - reducing the occurrences of crashes at highway-rail grade crossings.

The annual reports required under TEA-21 for the Highway-Rail Grade Crossings Program and the Hazard Elimination Program under Sections 130(g) and 152(g), respectively, are due by December 30, 2005. The information obtained for the Highway-Rail Grade Crossings Program will be used in the Report to Congress required of the USDOT.

The FHWA Office of Safety will be developing additional guidance on the above reporting requirements.

Strategic Highway Safety Plan

11. What is a Strategic Highway Safety Plan (SHSP)?

Under 23 USC148, State DOTs are required, after consultation with public and private safety stakeholders, to develop and implement a Strategic Highway Safety Plan (SHSP). The purpose of an SHSP is to identify critical highway safety problems and opportunities within the State. The SHSP provides a comprehensive framework for reducing highway fatalities and serious injuries, enabling the State to make data driven strategic investment decisions.

The SHSP considers the results of state, regional or local transportation and highway safety planning processes. The SHSP integrates the "four E's" of safety — engineering, education, enforcement and emergency services efforts.

12. What are the benefits of developing an SHSP?

The collaborative process of developing and implementing an SHSP is beneficial because it brings together and draws on the strengths and resources of all safety partners. The process encourages active and ongoing communication and cooperation among state and local safety partners, to maximize compatibility among individual safety countermeasure programs to achieve statewide safety performance goals for all public roads. Other benefits include:

- Establishment of common goals and priorities, which can be more effectively communicated to the public and political leaders
- Strengthening existing partnerships
- Building new safety coalitions

- Sharing data, knowledge, and resources
- Avoiding redundant activities and leveraging existing resources – funds, people, and leadership attention – toward common objectives
- Clearly communicating the benefits of investing additional resources for highway safety countermeasures

SAFETEA-LU requires States to develop and implement an SHSP in order to obligate funds for Section 148 eligible activities. Once a State has developed an SHSP, SAFETEA-LU allows 10% of the State’s HSIP funds to be used for other safety projects listed in their SHSP, provided the state certifies its railway-highway crossing and infrastructure safety needs have been met.

13. What is the relationship between SHSP and HSIP?

SAFETEA-LU created a new “core” safety program in Section 148 known as the Highway Safety Improvement Program (HSIP), which provides significantly more funds to state DOTs for safety improvement projects. This new, more comprehensive HSIP replaces the former Section 152, Hazard Elimination Program, and continues to provide funding for the provisions contained in Section 130, Railway-Highway Crossing Safety. As a condition to receive full funding, the new HSIP requires each State to develop a Strategic Highway Safety Plan (SHSP) that involves a comprehensive, collaborative, and data driven approach which considers the four E’s (Engineering, Education, Enforcement, Emergency Services) of highway safety. The process of developing an SHSP establishes the overall framework for analysis of priority needs and opportunities, and also can identify complementary and jointly funded activities among state and local partners. The HSIP funds administered by the FHWA are focused primarily on infrastructure-based safety projects described in the SHSP and implemented by the state DOT, and other partners are encouraged to utilize the SHSP as a guide to investing their safety funds.

14. What is the deadline for States to have a completed SHSP?

States are required to have developed and implemented a SHSP by October 1, 2006 in order to obligate funds for all HSIP (Section 148) eligible activities.

15. What happens if a State doesn’t meet the deadline?

Before October 1, 2006, and until a State has developed and implemented a SHSP, the State may only obligate its apportioned HSIP funds (Section 148) for projects that were eligible for funding under Sections 130 and the previous Section 152; in other words, the program that was in effect on the day before enactment of SAFETEA-LU.

If a State has not developed a SHSP by October 1, 2007 (fiscal year 2008), their apportionment under the HSIP (Section 148) will be “frozen” at the fiscal year 2007 level for that and all subsequent years until an SHSP is developed.

16. Does FHWA approve the SHSP developed by the State transportation department?

No. A State-level SHSP is to be approved by the State Governor or a responsible State agency. As part of the FHWA's Oversight and Stewardship responsibilities, the FHWA must ensure that the State has developed and implemented an SHSP that adheres to requirements included in the definition of "State Strategic Highway Safety Plan" contained in Section 148(a)(6). The FHWA Office of Safety intends to develop additional guidance on this and other SHSP-related issues in cooperation with the National Highway Traffic Safety Administration, the Federal Motor Carrier Safety Administration, the Federal Railroad Administration, and the Federal Transit Administration.

High Risk Rural Roads

17. Is the High Risk Rural Roads safety provision dedicated exclusively to rural roads?

Yes. The SHSP includes a set-aside for construction and operational improvements to address safety problems and opportunities on High Risk Rural Roads. This set aside of \$90 million each fiscal year for high-risk rural roads is limited to roadways functionally classified as rural major or minor collector or as a rural local road.

18. How are High Risk Rural Roads identified? Is there flexibility allowed in determining fatality rates and incapacitating injury rates?

Roadways functionally classified as a rural major or minor collector or as a rural local road are eligible. In addition, the roadway must have a crash rate for fatalities and incapacitating injuries that exceeds the statewide average for those functional classes of roadways. Roadways are also eligible if future traffic volumes are projected to increase causing a projected increase in the crash rate for fatalities and incapacitating injuries that exceeds the statewide average.

To determine whether a roadway is eligible based on its crash rate, States must first calculate the statewide average crash rate for fatalities and incapacitating injuries for each functional class of roadway. Flexibility will be allowed to use different types of crash rates depending on the data available in each State. Some examples include crashes per VMT, crashes per mile, etc.

19. What safety funds can be used on roads owned and operated by local units of government?

Section 148 HSIP funds are eligible for use on any public road (except for those funds specifically set-aside for high risk rural roads and railway-highway crossings, which have further eligibility requirements), including those owned and operated by local entities. Also, improvements at any public highway-rail grade crossings are eligible under Section 130.

It is very important that States have a crash data system with the ability to identify safety problems and opportunities on all public roads, that these needs are considered within the Strategic Highway Safety Plan process, and that States work with localities to ensure that safety improvements are implemented where they are needed the most.

20. The Section 148 set-aside of \$90M for high risk rural roads is only to be used for “construction and operational improvements.” Does this include planning and preliminary engineering for safety-related project as ancillary to those ends, or are those costs strictly prohibited?

As long as the project will ultimately involve a construction or operational improvement which is identified as part of a State’s HSIP process, funds from the set aside for high risk rural roads for preliminary engineering (includes environmental approvals and final design) would be eligible.

Railway-Highway Grade Crossings

21. What changes are there to the previous section 130 program?

The previous section 130, Railway Highway Crossings, is carried forward essentially intact. The primary changes are that the funding source is now a “set aside” from the Highway Safety Improvement Program of \$220 million per year (a significant increase of approximately \$65 million annually beyond TEA-21 levels), and that a new provision has been added allowing States to use up to 2% of the funds apportioned to their State under this program for compilation and analysis of data in meeting their reporting requirements.

22. What are the reporting requirements under the Section 130 program?

The following reporting requirements pertain to highway-rail grade crossings.

- The Secretary is required to submit a biennial report to Congress on the Highway-Rail Grade Crossings Program under the requirements specified in Section 90(g) of Title 23.
- As part of the HSIP reporting requirement to the Secretary that is stated under Section 148(g) of Title 23, each State’s report must describe the extent to which the improvements funded under this section contribute to the goal of reducing the occurrences of crashes at highway-rail grade crossings.

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