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Photo by Clyde Johnson

TRANSPORTATION ENHANCEMENT PROJECTS

Beautifying, Preserving and Enriching American Life

BY CLYDE JOHNSON, SR/WA

Many things are occurring around us that **enrich our lives**, bring back a piece of history for us to enjoy or provide recreational opportunities that contribute to the quality of our life and improve our community. ♦ Look around. Noticed anything different in your city or neighborhood? You might notice an old railroad depot being remodeled, or an abandon railroad corridor being converted into a pedestrian or bicycle trail. What about the great river walk you enjoyed on your last trip, or and old bridge that was converted to a short-line trolley facility. Or perhaps, my favorite, the award winning restoration of the Sapelo Island Lighthouse located on a small barrier island just off of Georgia's Atlantic coast.

The original construction of the lighthouse began

in September 1819, as a circular brick tower, 65-feet high and topped by an octagon iron lantern with lights. The lighthouse was deactivated in 1905 and remained virtually abandoned until 1994 when the Georgia Department of Natural Resources submitted an application to the Georgia Department of Transportation for transportation enhancement (TE) funding. The Divisional Director of the Historic Preservation Division of the Department of Natural Resources Ray Luce said the project to rehabilitate the lighthouse, "... presents a particularly good partnership between federal, state and private groups. The project is a model of what the federal Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 enhancement program was designed to do. The federal award of \$176,000 became a catalyst in preserving this monument structure. The Georgia General Assembly appropriated \$100,000 and private donations to the Sapelo Island Restoration Foundation raised an additional \$218,838. This partnership, with both public and private partners providing substantial funding is exemplary. "There are hundreds of TE projects across the nation enhancing our lives and communities. Many of these projects are a direct result of one of the most popular additions to our highway program and are funded directly from the Highway Trust Fund. The goal of the original legislation that launched these projects was (and continues to be) to develop a more balanced transportation system by providing funding and encouraging projects that were 'more than asphalt, concrete and steel.'" Further, it focused on building a system that fosters consideration of cultural, economic, environmental and social conditions to achieve this balance.

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Between the ISTEA and the Transportation Equity Act for the 21st Century (TEA-21) approximately \$6.4 billion has been made available by Congress for this program. *[Author's Note: There are many TE type projects being funded by other sources so one would have to look at the "money trail" to accurately determine who's providing the funding for a particular project.]*

With the passage of ISTEA in 1991 the stage was set for a \$24 billion, 6-year highway bill that created the new category of activities to be funded by the federal-aid highway program. This new category of funding was appropriately named the "transportation enhancement (TE)" program. Under this program the 10 percent set aside (of the \$24 billion) was mandated to be used exclusively for nonmotorized transportation related projects. In implementing this legislation the Federal Highway Administration (FHWA) required that the proposed activity must be one of the activities listed in the legislation and, the activity must have a "direct link" to transportation (either by function, impact or proximity).

Officially the definition of "transportation enhancement activities" can be found in Title 23 United States Code (U.S.C.) 101(a)(35) – Transportation enhancement activities means, with respect to any project

or the area to be served by the project, any of the following activities if such activities **relates to surface transportation**. *[Author's note: Bold language added by TEA-21, in 1998. Initially 10 categories were established for TE funding eligibility under ISTEA of 1991 those in italics were added under the TEA-21.]*

QUALIFYING ACTIVITIES

1. Provisions of facilities for pedestrians and bicyclists
2. Provision of safety and educational activities for pedestrians and bicyclists
3. Acquisition of scenic easements and scenic or historic sites
4. Scenic or historic highway programs
5. Landscaping and other scenic beautification
6. Historic preservation
7. Rehabilitation and operation of historic transportation buildings, structures, or facilities
8. Preservation of abandoned railway corridors, including their conversion into walking or biking trails
9. Control and removal of outdoor advertising
10. Archaeological planning and research
11. *Environmental mitigation to address water pollution due to highway runoff or reduce vehicle-caused wildlife mortality while maintaining habitat connectivity*
12. *Establishment of transportation museums*

TYPICAL FEDERAL-AID FUNDING PROCESS

The requirements of the TE projects are similar to highway projects in that there are three basic stages for authorization and funding: 1) preliminary engineering, 2) right of way acquisition and 3) construction. Projects approved for funding should comply with the National Environmental Policy Act (NEPA) of 1969, 23 Code of Federal Regulations (CFR), 771- Environmental Impact and Related Procedures, the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act) of 1970 and applicable civil rights legislation. Also, additional environmental reevaluations may be needed based upon the length of time between authorizations advancing the project to the next phase. The requirements of TE projects are similar. The initial phase is *programming* to advance projects that have been approved by the appropriate official or controlling body. Advanced projects must follow the normal planning process and be included in the appropriate planning document [Statewide Transportation Improvement Program (STIP) or Transportation Improvement Program (TIP) if the proposed project is located in a metropolitan area.] The next state involves the *obligation* of funds. In this phase a specific amount of funds are committed for the project. The FHWA makes a formal commitment to reimburse the state DOT (typically) for cost incurred on the proposed project. Not all projects programmed receive obligation authority. The final phase is *reimbursement* to the states (sponsors) for all applicable expenditures on the TE project.

WEB SITES

The following Web sites provide additional information of program issues and funding:

FHWA - www.fhwa.dot.gov/environment

NTEC - www.enhancements.org
ntec@transact.org

GAO - <http://www.gao.gov>

FHWA memorandum dated June 18, 1999. This memorandum, while providing guidance on the TE provisions of the TEA-21 also stated, “The TE activities funding has proven to be one of the many successful concepts to emerge from the Intermodal Surface Transportation Efficiency Act of 1991, and now continues under TEA-21. It has helped to redevelop struggling communities, beautify gateways to cities, preserve historic transportation facilities, and contribute to the rebirth of positive citizen views of many state and local transportation organizations. It has engaged communities and groups around the country, and helped the Nation’s transportation agencies, including the FHWA, build partnerships that have restored a dialogue that had become frayed by past controversies.”

Another important feature of TEA-21 (besides the addition of several new categories) was that Congress no longer required a “direct link” to

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transportation. Originally it required that a proposed project have close proximity to a highway or transportation facility before it could be considered for funding. One problem noted early in the program was the interpretation of direct link and the approval of projects with questionable links to transportation. The July 1996, General Accounting Office (GAO) report, “Transportation Enhancements – Status of the \$2.4 Billion Authorized for

Nonmotorized Transportation,” highlighted numerous projects where initial decisions on — direct linkage — were questioned. It also referenced additional guidance from FHWA, issued in June 1995 on eligibility requirements for historic preservation projects, “. . .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 the latter interpretation reflects the legislative intent.” The report went on to indicate that, “additional clarification was needed because interpretations of what constitutes a direct link to transportation vary. According to several officials, the criteria are still too subjective and each state or FHWA division office has its own opinion on how to interpret this requirement.”

Under TEA-21, Congress provided more flexibility by simply requiring that TE activities “relate to surface transportation.” Guidelines for this program required States Departments of Transportations local government and other sponsors to carefully document the appropriate connections to assure their TE application forward in the nomination process.

OFF TO A SLOW START

The GAO identified four major factors that slowed the obligation of transportation enhancement funds in their 1996 report to Congress.

1. Local sponsors were unfamiliar with federal-aid highway administrative procedures – initially there was confusion about administrative and regulatory issues regarding environmental and

acquisition issues under the Uniform Act of 1970. Funding reimbursement created the need for upfront funding by sponsors. Many of the initial issues were resolved later through additional legislation that relaxed or streamlined rules and regulations.

2. Programs mandated by ISTEA took time to develop – many states struggled to establish/structure program requirements and procedures. Public involvement in the TE process required a significant amount of time.
3. Administering a large number of low-cost projects were perceived as burdensome. Many states were not prepared to deal with a large number of low cost projects.
4. State transportation departments lacked the staff or expertise to administer nontraditional transportation projects – technical expertise in areas of historic preservation, building/structure renovations, and construction created additional concerns. Consultants/outside experts were brought in to facilitate state personnel.

Since this was a new program states/locals and sponsors proceeded initially with caution then as the program evolved, with guidelines established and other program requirements resolved, its popularity exploded across the nation. Many of the initial problems centered on compliance with the NEPA of 1969, and Section 4(f) requirements (reference Section 4(f) (U.S.C. 303) and 23 CFR 771.135). State DOT’s (or other eligible transportation agencies) are responsible to the FHWA for the qualifying project. Gradually streamlining measures have been developed to simplify the process leading to a much smoother application and review process.

STREAMLINING INITIATIVES

In order to resolve initial problems and simplify the process in 1995, President Clinton signed into law the National Highway System Designation Act of 1995 (NHS Designation Act). Specific areas were identified and streamlining initiatives were included as follows and FHWA responded by issuing guidance memorandums as indicated:

1. Categorical Exclusions under NEPA – FHWA memorandum - NEPA Requirements for Transportation Enhancement Activities, October 28, 1996.
2. Advance Payment Options – FHWA memorandum - Advance Payment Options for Transportation Enhancements, May 31, 1996.
3. Funding flexibility (donations, donation of services and/or materials) – FHWA memorandum – Innovative Finance Provisions of the NHS Designation of 1995, May 17, 1996.
4. Application of Uniform Act to third party sellers – FHWA memorandum – Implementation Guidance – Section 315 NHS Designation Act, February 20, 1996.
5. Programmatic Agreements to address historical preservation – FHWA memorandum – Programmatic Agreement on Transportation Enhancements, June 11, 1997.

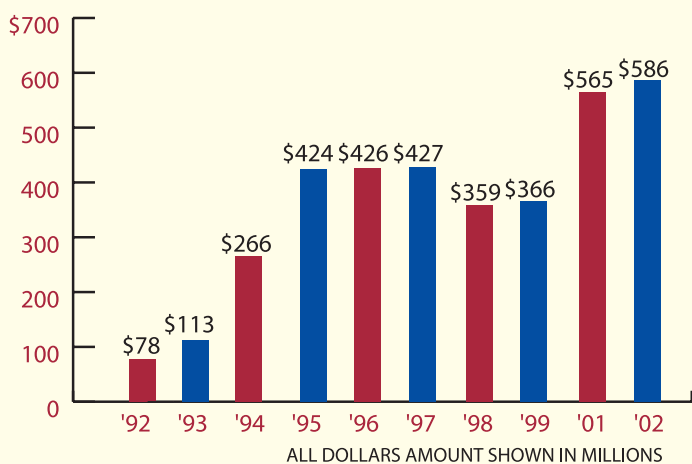
TRANSPORTATION ENHANCEMENT FUNDING

Figure 1 illustrates the trends in the obligation of funds for TE projects. An obligation is a commitment by the federal agency to reimburse the state for the appropriate federal-aid share of the TE project's cost. Based upon an executed project agreement these obligated funds are committed to a specific project.

The funding process is very complex. To help control federal expenditures, Congress places limits on the amount of funds obligated for a specific year. States can move funding around within highway programs but cannot exceed the set limits on the amount of funds that can be obligated. Thus, Congress may limit spending to 70 percent of the amount of money obligated for a specific year.

OBLIGATED EACH FISCAL YEAR (FIGURE 1)

NTEC MAY 2002, PG-13



The GAO report, summary of Nationwide Spending as of FY-2001, provides additional information on TE obligations and examines trends in program obligation activities. It also provides a state-by-state analysis of TE funding from FY-1992 through FY-2001.

Generally funding provided by the federal-aid highway program may be used by state and local governments on the any road on the federal-aid highway network. Currently this system has approximately 950,000 miles eligible for federal-aid funding. Under this program a 10 percent set-aside was established for projects that qualify under one of the approved categories.

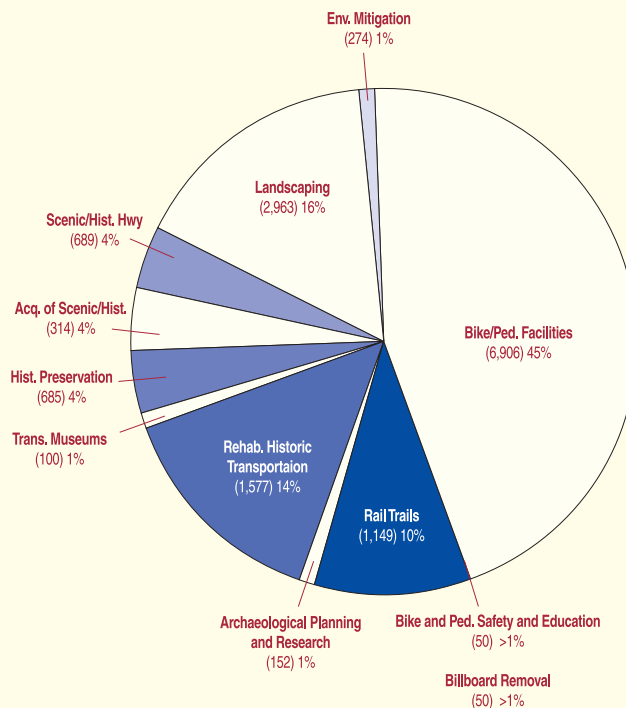
Federal participation in the funding for TE projects generally is at 80 percent of the total project cost, while local sponsors contribute the remaining 20 percent. The local match may be a combination of cash, donated services, materials, real property or in-kind services. As in most federal-aid projects the funding may be used in one or all three phases of the project, preliminary engineering, right of way, and/or construction. Generally most sponsors use TE funding for construction of the project and provide the preliminary engineering and right of way. Usually once the funding has been established for a specific TE project there are no changes in the funding categories.

FUNDING BY TE ACTIVITY

Figure 2 illustrates the distribution of federal funding by approved categories from FY-1992 through FY-2001. Obviously the largest funding category for bike and pedestrian facilities probably impacts the most significant number of private citizens. Having served on the City of Alpharetta, Parks and Recreation Committee from 1986 through 1993, our long range plan for pedestrian walking and running trail included in our "Greenway" program received a jump start with the introduction of TE projects and several segments have already been completed utilizing this category of funding. The direct impact of this funding source provided much needed local intermodal facilities for our community well in advance of our city's ability to fund through normal financing.

PERCENTAGE OF FEDERAL FUNDS BY TE ACTIVITY (FIGURE 2)

FY 1992-2001



EXAMPLES OF TRANSPORTATION ENHANCEMENT PROJECTS

Successful TE projects from several different categories across the nation have impacted the local economy. While difficult to measure in some cases, these projects allow local governments to direct much needed funds toward other infrastructure projects. The success of this program attracts many local sponsors that willingly participate in the "matching funds" requirements.



RAINBOW ARCH BRIDGE
MORGAN COUNTY,
COLORADO

The Rainbow Arch Bridge crosses the South Platt River, .8 miles north of Morgan, Morgan County, Colorado. Originally located on state highway 52, the bridge was retired and replaced with a new structure, located just upriver by CDOT in 1987. The bridge now serves pedestrian and bicycle traffic.

Category: Historic transportation facility

Total funding: \$750,000 (federal \$595,000, local \$155,000)



EUHARLEE CREEK
COVERED BRIDGE,
BARTOW COUNTY,
GEORGIA

The Euharlee Creek Covered Bridge spans Euharlee Creek in Bartow County, Georgia. It's one of approximately 13 remaining covered bridges in the state.

Category: Historic transportation facilities

Funding: Not provided



A PARIS RENAISSANCE
PARIS, KENTUCKY

This project involved demolition of existing concrete sidewalks, relocation of electrical service, reconstruction of sidewalks with brick edge treatment and installation of period lighting fixtures in project area.

Category: Pedestrian and bicycle facilities

Funding: \$500,000 (federal \$400,000, local \$100,00)

The opinions expressed in this article represent that of the author and do not represent the opinions of the FHWA.



BURROUGHS STREET
BRIDGE AND
PORTLAND RAILS-TO-
TRAILS
PORTLAND, MICHIGAN

This project involves construction of a trail that will run along the top of the bank in the floodplain adjacent to the Grand River, under Bridge Street and Grand River Avenue Bridges along the edge of the river, and back up onto the top of the riverbank until it reaches the Looking Glass River. The path will cross the Looking Glass River on the two span historic Burroughs Road Bridge which is to be resolved. The remainder of the path will be above the 100-year flood elevation on the abandoned railroad grade, which the City of Portland acquired.

Category: Abandoned railway corridors, preservation

Funding: \$900,000 (federal \$515,000, local \$385,000)

SUMMARY

The popularity of TE projects continues to drive requests for additional funding and increase the competition between sponsors. The economic success of this program was highlighted in the publication, "Community Benefit? The Social and Economic Benefits of the Transportation Enhancements." This booklet points out how, "These significant benefits may often be difficult to quantify but are obvious to those who experience them." Further it highlights 10 case studies that provide examples of projects and benefits that were documented through TE activities.

Obviously TE obligation rates for TE projects will continue to improve in the future (FHWA's goal is 75 percent by the end of TEA-21). Analysis of FY-92 through FY-95 the figures offered in GAO's report doubled, yet still lag other highway obligation rates. Clearly, planning and programming TE projects are getting easier as experience levels increase across the program. Environmental hurdles have significantly decreased as the positive (no-impact or effects) benefits and programmatic issues have been realized. Further clarification of the nexus between the activity and how it relates to surface transportation may be needed; however, it seems that with the increased flexibility and competition for funding future applications will filter out marginal "qualifying" submissions. ❖

REFERENCES

- 1 *What are Transportation Enhancements? National Transportation Clearinghouse, Web site introduction*

from

[below] The Right of Way monthly bulletin:
Official bulletin of the Southern California Right of Way Agent's Association.
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