Forum Focus
Making the Most of MAP-21: The Next Chapter for Preservation in Transportation Planning
MAY 2013

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The Next Chapter for Preservation in Transportation Planning

When Congress passes a new law, most people wonder: “Does this affect me? And if so, how?” The new transportation law enacted by Congress last fall has preservationists asking these same questions.

Effective October 1, 2012, Moving Ahead for Progress in the 21st Century (MAP-21) is a $120 billion two-year bill that includes a dramatic restructuring of transportation programs and processes. These changes will affect the various transportation funding programs and project review and delivery that have proven to be immensely beneficial to historic preservation projects over the past 20 years. MAP-21 is still a viable source of funding for historic preservation-related projects, and preservationists need to become familiar with the new programs and policies of the law and be creative in thinking about how to access available funds. This Forum Focus will explain these changes and how they affect historic preservation as well as the importance of getting involved in transportation planning.

SOME BACKGROUND

Although transportation and preservation share a common goal—creating better lives for Americans—these two fields are often at odds as road projects can damage important parts of the nation’s heritage. The devastation was most obvious after the highway-building surge of the 1950s and ‘60s when billions of dollars were invested in road systems that sliced through rural landscapes, bisected traditional urban neighborhoods, and resulted in the loss of historic resources.

Since then we have learned that there are better ways to both develop necessary transportation infrastructure and preserve historic resources. Laws such as Section 4(f) of the Department of Transportation Act (widely considered to be the strongest federal preservation law), the National Environmental Policy Act (NEPA), and Section 106 of the National Historic Preservation Act play a role in protecting historic and cultural resources affected by transportation projects. These laws, on the books for more than 40 years, not only effectively protect...
TRANSPORTATION ENHANCEMENTS

In the early 1990s, Congress and the U.S. Department of Transportation began promoting a more balanced transportation system as a way to improve quality of life. In 1991 Congress passed the Intermodal Surface Transportation Efficiency Act (ISTEA), a six-year $217 billion act that changed the way that much of the country’s transportation infrastructure was financed. Unlike previous federal transportation legislation, ISTEA encouraged investment in alternative transportation and nontraditional activities along with highway infrastructure, such as mass transit, pedestrian and bicycle facilities, and historic preservation.

One key element of this community-friendly approach was the Transportation Enhancements (TE) program. TE required states to set aside a portion of their federal-aid highway allocations for nontraditional activities that enhanced the community benefits of transportation investments. All 12 eligible TE categories supported sustainable and livable community goals, and about half directly encouraged historic preservation, including the rehabilitation of historic bridges and roads, the reuse of older facilities such as train depots, and the revitalization of historic downtowns. ISTEA and its successors—the Transportation Equity Act for the 21st Century (TEA-21) and Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)—implemented the TE program as a mandatory 10 percent set-aside of the Surface Transportation Program, which was administered by the states.

Although TE was the greatest source for funding for preservation-related transportation projects, it wasn’t the only source of funding contained in the law. Funding for historic preservation projects was also available from the State Research and Planning Program, the Scenic Byways Program, the National Historic Covered Bridge Preservation Program, and the Surface Transportation Program.

BIG BUCKS FOR HISTORIC PRESERVATION

The Transportation Enhancements program has been a significant federal source of historic preservation funding. During its 20-year tenure, it is estimated that 1/3 of the total $13.4 billion dedicated to more than 24,000 transportation-related projects has helped fund the restoration of historic train depots, one-lane bridges, and a host of other preservation projects.
GETTING THE TERMS RIGHT

ISTEA – Intermodal Surface Transportation Efficiency Act of 1991

MAP-21 – Moving Ahead for Progress in the 21st Century of 2012

SAFETEA-LU – Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users of 2005

TAP – Transportation Alternatives Program

TE – Transportation Enhancements

TEA-21 – Transportation Equity Act for the 21st Century of 1998

WHAT MAP-21 MEANS FOR HISTORIC PRESERVATION

When SAFETEA-LU expired on September 30, 2009, Congress passed a series of extensions to keep transportation projects and programs funded. Overall lack of funding and an inability to reach consensus about key elements of the bill led to lengthy debates and ultimately the reauthorization of only a two-year bill instead of a five- or six-year bill, which will mean a quick turnaround for the next reauthorization. After nearly three years of extensions, negotiations, drama, and suspense, the transportation reauthorization legislation known as MAP-21 was finally signed into law (P.L. 112-141).

The law addresses the overarching goals of lawmakers—to reduce spending, consolidate programs, accelerate project delivery, and focus on safety, performance measures, and reinvestment in aging infrastructure. During bill consideration, historic preservation programs and protections faced dire threats that would have been devastating to the preservation movement including the evisceration of Section 4(f). Due to the hard work of many, the modifications to preservation programs and protections were not as far reaching.
as they could have been. However, it is incumbent on preservationists to be aware of the following changes contained within the new law:

• Dedicated funding for the National Historic Covered Bridge Preservation Program and the National Scenic Byways Program was eliminated.
• The Transportation Enhancements Program was restructured into the Transportation Alternatives Program (TAP). Certain projects, for example the acquisition of scenic easements, are no longer eligible for funding.
• Overall the funding for the TAP has been reduced and the dedicated set-aside eliminated, which has profound consequences for funding historic preservation projects.
• Certain projects are excluded from environmental review procedures.

Let’s look more carefully at the last three items on the list: TAP eligible projects, TAP funding, and categorical exclusions.

PROJECT ELIGIBILITY

Transportation Enhancements no longer exists as a separate program, but is part of a larger program called the Transportation Alternatives Program (TAP). The TAP combines several programs from SAFETEA-LU, including Transportation Enhancements, Recreational Trails Program, and Safe Routes to School Program.

Funding Structure of Transportation Alternatives Program
Courtesy of National Transportation Alternatives Clearinghouse
Planning, designing, or constructing roadways within the right-of-way of former interstate routes or other divided highways is also an eligible expense under the TAP. Although many of the former TE activities are still eligible categories under the TAP, the following activities are no longer eligible for funding:

- safety and educational activities for pedestrians and bicycles,
- acquisition of scenic easements and scenic or historic sites,
- scenic or historic highway programs (including visitor and welcome centers),
- operation of historic transportation facilities,
- archeological planning and research undertaken for proactive planning,
- and the establishment of transportation museums.

**AVAILABLE FUNDING**

The TAP accounts for about 2 percent of highway funding, which is significantly less than the combined totals for the same programs under SAFETEA-LU, and will be far more difficult to access for preservation activities. Similar to TE, states will receive an apportionment of the TAP funding, but unlike TE, states will not be required to use these funds for solely for TAP projects. This major restructuring is expected to result in fewer dollars for historic preservation

**WHAT YOU NEED TO KNOW ABOUT THE TAP**

- The Transportation Alternatives Program (TAP), like its predecessor, Transportation Enhancements (TE), aims to create jobs, improve the quality of life, capitalize on existing historic resources, and protect the environment.

- The popularity of TAP is likely to match and exceed that of its predecessor, TE, a program that routinely received more proposals than it could fund. Given the high demand and smaller supply of funding, it will be more difficult to secure funding for preservation-related projects. Preservation advocates need to be involved early and often with state and local decision makers to promote preservation-related projects.

- Historic preservation projects are still eligible for funding. Preservation of transportation-related historic and cultural resources, including historic bridges and roads, rail depots and other historic transportation facilities, streetscaping, archeology, and interpretive displays are all eligible TAP projects.

- The TAP can be good for preservation and good for the economy. According to a research report by AASHTO and the Transportation Research Board, transportation enhancement projects were the most labor intensive type of highway spending through the stimulus and generated the most jobs per million dollars spent (17.03) of any kind of highway investment. TAP is likely to have a similar effect on job creation.

- The TAP is designed to be collaborative. It will encourage interaction among transportation professionals, preservationists, and other civic groups. TAP activities should be integrated with other goals for transportation, historic preservation, tourism, and economic development.
projects. Of these funds, a certain percent is set-aside for the Recreational Trails program (unless the state chooses to opt out). Of the remaining funds, 50 percent are sub-allocated by population and 50 percent are available to any part of the state through a competitive process to be developed by states and metropolitan planning organizations. A significant additional change is that states may “opt-out” of a portion of the funds and direct the dollars to other transportation priorities.

**Exclusions from Environmental Review**

Historic preservation faced its most serious threat in recent years during the reauthorization process and development of MAP-21. Perhaps the most serious proposal that would have been devastating to historic preservation was the evisceration of Section 4(f) by allowing Section 106 outcomes to satisfy 4(f). Due to the hard work of the National Trust and its partners, this provision was not included in the final bill language. However, other provisions in the final measure may affect historic preservation.

Certain projects are excluded from the environmental review, including projects located in an existing right-of-way, properties that have been acquired in advance for transportation projects that have not yet been approved, and projects affected by emergencies and natural disasters. Another serious threat
was avoided when MAP-21 included compromise language to authorize a study of state processes to see where duplication can be eliminated by substitution of state law for certain federal laws (including the National Historic Preservation Act), instead of calling for the outright substitution of these laws.

EXPLORE PLANNING OPPORTUNITIES AVAILABLE THROUGH MAP-21

Although the traditional sources preservationists used for project funding are far more limited, other opportunities exist to integrate historic preservation in the transportation planning process. One potential source of funding, which has more than $1 billion available, is for statewide and metropolitan planning. Under federal law, every state must prepare a Long Range Plan (LRP), which examines expected transportation needs for the next 20 years, and a Statewide Transportation Improvement Program (STIP), a multi-year list of projects proposed for federal, state, and local transportation funding. Similarly, metropolitan planning organizations (MPOs) are required to prepare a Transportation Improvement Program (TIP), a three-to-five-year list of transportation projects for the region. Transportation planning should be conducted openly and be accessible to all citizens and local communities, including historic preservation interests.

Historic preservation can be integrated with strategic transportation planning in a number of ways. Recent research done by the SRI Foundation and Cambridge Systematics Inc., outlines various best practices among states engaging in the transportation planning process. These activities range from survey work to predictive modeling, and from preservation staff dedicated to transportation work to innovative resource identification and protection programs.

Early Involvement is Critical

Historic preservation has an important role to play in transportation planning. Advocates should engage in the process for a number of reasons:

• Early identification of historic and cultural resources calls attention to sensitive areas to avoid during the development of long-range transportation plans.
• Proactive outreach to transportation partners will result in more effective, long-term partnerships, cooperation, and collaboration.
• Early involvement will avoid later conflicts, resulting in better protection of resources, fewer project delays, and completion of projects within budget.
• Early collaboration between preservation and transportation interests should result in fewer cases of administrative and judicial delay.

CONCLUSION

Now that MAP-21 is in place, preservationists need to take advantage of programs and the funding available for historic preservation purposes. Additionally, the next transportation reauthorization is already underway and will bring similar challenges for historic preservation. Preservation advocates
need to be prepared for continued attacks on funding and environmental review and be ready to defend the important protections and programs already in place. Now is the time for preservationists to educate, engage, and inform key decision makers on the importance of incorporating historic preservation early in the transportation planning process and the value of Section 4(f) as a shield to protect historic resources. Preservationists across the country will need to demonstrate the importance of maintaining a strong Section 4(f) presence—as well as more advanced transportation planning concepts and designs—in order to keep the community character and cultural resources of our country intact.

REFERENCES AND RESOURCES

- Section 4(f) Policy Paper
- Section 4(f) of the Department of Transportation Act
- National Environmental Policy Act
- Section 106 of the National Historic Preservation Act
- National Transportation Alternatives Clearinghouse
- MAP-21
- Effective Practices for Considering Historic Preservation in Transportation Planning and Early Project Development
- Planning and Environmental Linkages for Historic Preservation