WRITTEN STATEMENT FOR THE RECORD

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ON BEHALF OF THE NATIONAL ASSOCIATION OF COUNTIES

HEARING TITLED, "DEPARTMENT OF TRANSPORTATION DISCRETIONARY GRANTS: STAKEHOLDER PERSPECTIVES"
BEFORE THE COMMITTEE ON TRANSPORTATION & INFRASTRUCTURE
UNITED STATES HOUSE OF REPRESENTATIVES

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<u>Introduction</u>

Good morning, Chairman Graves, Ranking Member Larsen and distinguished members of the Committee. Thank you for the opportunity to provide feedback on how America's county governments are faring in the competitive grants process as it relates to U.S. Department of Transportation (USDOT) funding opportunities in the *Infrastructure Investment and Jobs Act* (IIJA/P.L. 117-58).

My name is Alan Winders, and I am the Presiding Commissioner in Audrain County, Missouri, where I have served since 2016. Among Missouri's 114 counties, Audrain occupies approximately 700 square miles in the east central part of the state. Home to just under 25,000 residents with a population density of 36, the county is considered rural by the 2020 U.S. Census.

With its rich, fertile land, Audrain is one of the state's leading agricultural communities with primary farm products consisting of soybeans, corn, grain, wheat, beef and pork. In value-added agriculture, a biodiesel plant and an ethanol plant located in Audrain County provide renewable fuels to the region. We are home to numerous manufacturing firms, service industries, and other small businesses ranging from retail shops to light manufacturing, distribution and food products. Our residents enjoy an economic climate marked by variety and progress.

I also serve as Chair of the U.S. Highway 54 Corridor Coalition (Coalition), comprised of Audrain and Pike Counties, Mo. and Pike County, Ill., as well as the various communities that make up the route between Mexico, Mo. and Pittsfield, Ill. The Coalition's goal is improving safety and increasing corridor capacity through the implementation of an innovative, shared four-lane facility and associated intersection improvements. The coalition has been diligent, continuing its efforts for nearly 20 years.

In addition to my county roles, I am testifying in my capacity as a member of the National Association of Counties (NACo). NACo represents the interests of all of America's 3,069 counties, parishes and boroughs. Like Audrain County, nearly two-thirds of the nation's counties are rural, located outside of an urbanized area and encompassing less than 50,000 residents. At the same time, there are over 120 urban counties where local services are provided to 130 million residents each day.

Through participation in NACo's ten policy committees, county officials work together to develop common legislative and regulatory solutions at the federal level. As a member of the NACo Transportation Policy Steering Committee, I work with my peers from around the country to advance our national transportation priorities, the number one of which is securing consistent federal funding for county-owned roads and bridges.

As we approach the midpoint of the IIJA, America's counties thank you for your attention to the law's processes and, specifically, to the ability of local governments to access the multitude of new competitive opportunities created by the IIJA within USDOT. We hope you will use this feedback to inform your policy considerations for future surface transportation legislation.

Counties offer the following considerations:

- **Counties hold a large ownership share of the nation's roads (44 percent) and bridges (38 percent) yet receive no direct, guaranteed federal funding to support these assets that serve many more than just our residents.**

- **Counties must compete with other counties, our city and state partners, and others for direct federal funding for local transportation needs, often unsuccessfully, and we urge Congress to streamline this process.**

- **To ensure the IIJA meets its intended goals, federal policymakers should produce timely, clear criteria and guidance and eliminate barriers to project delivery.**

Counties hold a large ownership share of the nation's roads (44 percent) and bridges (38 percent) yet receive no guaranteed federal funding to support these assets that serve many more than just our residents.

County governments collectively own, operate and maintain significantly more public road miles (44 percent) than any other level of government, including states (20 percent). We also own and operate a significant amount of the nation's bridges (38 percent) compared to cities (8 percent) and townships (5 percent). Beyond roads and bridges, counties are direct supporters of 34 percent of airports and 40 percent of public transit systems that keep Americans connected in every corner of the country and throughout the globe.

Home to the "last mile," where the majority of Americans both begin and end their days, counties are leaders in the national infrastructure network and major investors, annually spending over $130 billion on the construction of transportation and infrastructure and the maintenance and operation of public works.

In Missouri, counties own half of all bridges, well over the national average. In Audrain, the county owns and operates just over 71 percent of bridges and 65 percent of road miles. Much of the Sixth District of Missouri looks like Audrain, with its 39 counties accounting for nearly 40 percent of all bridges in the state. In Washington, counties own 40 percent of bridges, with the county-owned bridges in the 2nd District accounting for seven percent of the state's nearly 8,500 bridges.

While we own a substantial share of the nation's roads and bridges, counties receive no guaranteed federal funding for these assets that serve many more than just our residents. Compounding the problem, Missouri, Washington and 43 other states limit the ability of counties to raise revenue in various ways, making intergovernmental support vital to meeting our public sector responsibilities, especially in small and rural communities where property tax bases – the predominant revenue source of most counties – are insufficient.

Because federal surface transportation laws have historically apportioned 90 percent or more of transportation funding directly to state departments of transportation (DOT) via formulas, counties must rely on competitive funding opportunities that largely make up the remaining 10 percent to meet the needs of locally owned infrastructure outside of the National Highway System that makes up the majority of the nation's roads and bridges.

While counties greatly value our partnerships with state DOTs, the productivity of these relationships can vary by state and even county by county. Further, even when the intergovernmental relationship is effective, DOTs have their own infrastructure responsibilities that are posited above our own which they too may be struggling to meet, especially in rural states like Missouri.

Still, examples of county-state best practices exist nationwide. The Missouri DOT works closely with counties through its off-system bridge set-aside fund that combines the set-asides from both the Bridge Formula Program and the Surface Transportation Block Grant. This practice reduces the amount of the local match required from 20 percent to roughly 12 percent.

For counties in Oklahoma, where only three of its 77 counties retain a professional engineer, the state DOT has taken over the complex reporting requirements that accompany federal awards at no charge and is also supporting a portion of application costs. In Indiana, the State Community Crossings Match Grant supports local investment in infrastructure projects.

Unfortunately, these examples are not the experience for all counties, leading to inconsistencies in the system that vary by location. The divide is more easily discernible, however, within the states themselves because of the federal transportation funding gap that persists between urban and rural communities.

Nearly two-thirds of America's counties are rural. According to USDOT, these areas – while sparser in population – are where 68 percent of the nation's total lane-miles are located. In 2019, the Congressional Research Service reported that, of the over 1.6 million miles of rural county roads, just 13.7 percent are eligible for federal aid.

Due to chronic underinvestment by our state and federal partners and limited local tax bases, rural roads have serious safety concerns. Rural areas are home to just 19 percent of the U.S. population but represent where 43 percent of all roadway fatalities occur. Simply put, a driver is almost twice as likely to die on a rural road than an urban road. This reality is an example of the real-life consequences of USDOT having to select winners and losers.

While rural infrastructure is deteriorating, it continues to support the bulk of the movement of people and goods. USDOT reported that "large volumes of freight either originate in rural areas or are transported through rural areas on the nation's highways, railways, and inland waterways." This includes 46 percent of the total miles traveled by heavy trucks, which can weigh 80,000 pounds or more in states with exemptions to the federal threshold.

Due to their size and prevalence, heavy trucks have huge impacts on local infrastructure felt most acutely in rural areas where travel times can be twice as long as urban settings due to the nearly 60,000 bridges closed or posted with weight restrictions. Heavy trucks also pose serious safety risks for our residents and other travelers who drive along county roads each day.

According to a 2023 local bridge study, "local bridges represent 76.4% of all bridges, but 89.6% of poor bridges…Local bridges, being in worse condition overall, are more vulnerable to the potential damage caused by heavier trucks." **Counties urge lawmakers to prevent heavy truck size and weight increases not accompanied by adequate support to remediate impacts on locally owned infrastructure.**

Some county bridges may carry low traffic volumes but represent *literally* the only connection to work, school and emergency services where a failure has the potential to isolate an entire community. No traveler begins their trip on a highway and the functionality of the system depends on every cog. The connectivity of the network, ranging from interstates to local gravel roads, is vital. In summary, a route is only as good as its weakest mile (or bridge).

Because areas with higher populations receive larger shares of federal funding across the government, small and rural counties are continuously overlooked, *though the infrastructure serving these communities is just as important to its residents as urban dwellers*. Competitive programs that do not have statutory population requirements should help address this inequity, though some FY 2022 awards have called this into question.

It is evident that needs exist throughout the system, both big and small. Action is required from every level of government; however, some levels of government are not as equally equipped to access federal transportation funds.

Counties must compete with other counties, our city and state partners, and others for direct federal funding for local transportation needs, often unsuccessfully, and we urge Congress to streamline this process.

The IIJA was not only historic in the amount of investment it provided for American infrastructure but also because it increased the number of actors eligible to meet the nation's transportation needs. While process improvements can be made, **counties are tremendously grateful for the new funding opportunities created by the IIJA and urge lawmakers to protect the level of investment in the next reauthorization.**

Competitive grants represent the only method for counties to directly access federal funding to address community needs which, as local leaders, we understand best. However, while the IIJA created dozens of new opportunities within USDOT, many remain inaccessible to county governments due to several obstacles, some stemming from the competitive grants process itself.

To this end, NACo joined other stakeholders to make five recommendations to the White House Office of Management and Budget (OMB) that would simplify the federal grants process:

1. Promote simplified concepts, accessibility of key timing/thresholds based on entity size
2. Streamline common identifiers for tracking purposes
3. Utilize "plain language" instruction for the layman whenever possible
4. Lengthen timelines to accommodate local governments due process
5. Streamline application processes

Even with process improvements in place, federal grants are structured to reward applicants with resources to compete, and many counties face stiff barriers. As a member of the Coalition, Audrain County has experienced first-hand the challenges faced by rural applicants. We believe our experience with applying for funding through the USDOT Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant program, and the Better Utilizing Infrastructure to Leverage Development (BUILD) grants under the previous administration, is an example of how the process can work against local governments.

The Coalition has yet to see success after actively seeking a RAISE grant for the past six years on behalf of a state asset. Despite submitting for the same project each year and updating its application to meet changing criteria, the county's rating has continued to drop from its highest in 2019 to its lowest in the most recent round of awards. Once considered innovative by agency evaluators, USDOT has most recently rated the application low in this category. In the Coalition's experience, ratings can vary based on the reviewer, creating immense uncertainty for applicants.

Coalition members have spent over $15,000 alone on developing and updating RAISE's required benefit-cost analysis. Lacking the means for a consultant to assist with the application, the Coalition relies on support from the local area's regional planning commission, the Mark Twain Regional Council of Governments. This funding shortfall is common in rural areas and places communities on an uneven playing field with urban and state-level applicants even when resources are pooled.

Undoubtedly, cost is a significant obstacle to competition for counties for who lack capacity, both financial and human. Counties with small populations and limited instruments to raise revenue must first evaluate whether pursuing federal funds is a good use of scarce resources by asking ourselves several questions, including:

- Can we afford a consultant?
- Can we meet the local match?
- If awarded, can we front the cost of the project as required by the reimbursable nature of USDOT programs?
- Can we administer the grant, if awarded, as grant administration costs are disallowed?

Federal notices of funding opportunities (NOFO) are long and complex. Difficulty in deciphering funding announcements forces interested applicants to hire expensive third parties to understand and respond to the criteria. This is especially true for nontraditional applicants seeking funding for the first time, which represents a significant number of real and potential IIJA applicants.

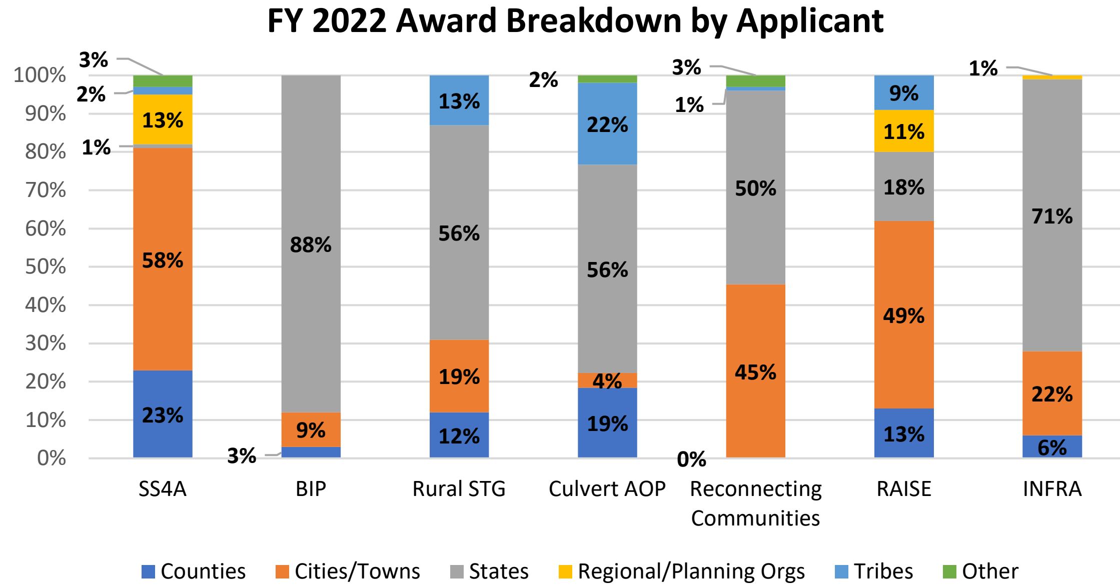
Seriously complicating matters further, non-statutory NOFO criteria has proved difficult for some counties, especially small, rural and first-time applicants. Meeting additional requirements, as worthy as they may be, only makes access more difficult for applicants who have not historically benefited from federal funds.

The Highway 54 project might serve as a prime example where the goal of the Coalition is to build capacity by expanding a two-lane highway into a shared, four-lane highway in rural Missouri, about 50 miles northwest of St. Louis. This project is critical to our region and will improve safety, congestion, economic development and the efficiency of the national network efficiency; however, our RAISE applications lose rating points in sections such as "innovation" and "environmental justice."

In our rural area and other similar communities, county officials simply do not have the resources necessary to be competitive with our urban and suburban neighbors in these types of endeavors. Ours is a road project though largely unrelated criteria continues to keep it from moving forward in the application process.

Many rural counties are still trying to bring our infrastructure to states of good repair, and it is unreasonable to expect cash-strapped communities who have never before sought and/or received federal funding to exemplify innovative practices when we are struggling to keep our local roads and bridges in safe and working order.

To competitively respond to NOFOs, counties across the country are investing tens of thousands of dollars in consultant services to produce applications that have no guarantee of success. In fact, a NACo analysis of key USDOT awards to counties in FY 2022 showed that counties are significantly less successful when up against our city and state partners in USDOT programs across the board:



Source: *NACo analysis of USDOT FY 2022 award announcements*
Notes: *Does not include amounts to Connecticut and Rhode Island where county governments do not exist or U.S. territories; "Other" includes nonprofits, institutions of higher education, public housing authorities and special districts depending on program eligibility*

Counties fared best in the Safe Streets and Roads for All Program, a competitive grant created by the IIJA with a unique eligibility that excludes state governments. This allowed local governments to perform significantly better in comparison to other discretionary grant programs, all of which allow state DOTs to apply in addition to the formula funds they annually receive. Counties performed worst in the Reconnecting Communities category where no FY 2022 awards were made to county governments despite the submission of over 40 applications deemed eligible by USDOT.

Of note, the Bridge Investment Program has three funding categories. Included in NACo's analysis are large bridge grant awards for projects over $100 million, which account for the majority of the program's award total and went mainly to states. Removing this data and looking at planning and regular bridge grants combined, counties slightly outperformed cities 53 percent to 47 percent. While this may seem more equitable, counties own 38 percent of bridges compared to cities' eight percent where 51 percent of county-owned bridges are off-system versus just seven percent of cities.

Among the seven programs examined, counties received just eight percent of awards overall, demonstrating that counties simply cannot continue relying solely on competitive funding opportunities to repair and modernize local infrastructure. In the next surface transportation reauthorization, **counties urge lawmakers to develop a direct, guaranteed funding source for locally owned roads and bridges.**

In addition to funding challenges, small and rural counties also face personnel shortages. In many communities, the responsibility to find a grant, apply, administer an award, and meet reporting requirements can fall to the county clerk or treasurer who are seldom proficient in this responsibility that largely falls outside of their job description.

Nevertheless, since the current funding structure demands we compete, counties appreciate the wealth of staff time and technical assistance resources USDOT has provided since the enactment of the infrastructure law. Counties specifically applaud USDOT's amendment to the FY 2024 RAISE NOFO that allows the Department to consider advance payments on a case-by-case basis for recipients who cannot complete a project on a reimbursement structure, though we recommend this information be available in the original NOFO going forward and that this practice be expanded to additional programs.

We value our partnership with the Department and their many best practices around the IIJA, including:

- Allowing for advance repayment in some cases in FY 2024 RAISE NOFO
- Facilitating local planning by providing access to key information, like opening and closing dates for NOFOs, and allowing for rolling deadlines and multi-year NOFOs
- Reducing administrative and cost burdens for counties by using templates and "common applications" that allow counties to apply to multiple opportunities using a single application
- Engaging rural communities with in-depth program webinars and other targeted resources

To ensure the IIJA meets its intended goals, federal policymakers should produce timely, clear criteria and guidance and eliminate barriers to project delivery.

As discussed, capacity issues and constrained finances are common at the local level and these factors continue to impact an applicant throughout the process. Should a small or rural county overcome the odds to receive a federal grant, the subsequent reporting requirements associated with 2 CFR Part 200 are extremely long and complex and likely too onerous to comply with.

While the IIJA significantly increased the number of competitive programs counties can apply to, it did not change how programs are fundamentally structured. This means that the same reporting requirements that previously applied to more sophisticated entities, like state DOTs, now apply to much smaller entities, like rural counties. Like consultant costs, this can prevent eligible entities from pursuing federal programs that could otherwise benefit local communities.

True for all recipients of federal infrastructure funds, confusing, complex and unnecessary regulations can make implementing an award just as challenging as competing for the opportunity. When counties are successful, we need responsive federal partners who produce timely and clear guidance that enshrines local flexibility. Federal guidance and regulations should not inhibit flexibility or prescribe to state and local governments how to spend awards.

To ensure compliance, local governments rely on direction from our federal partners, such as OMB's Build America, Buy America implementation guidance and instructions from USDOT's modal administrations, such as the Federal Highway Administration. **County officials urge our federal partners to avoid being overly prescriptive in crafting guidance and other resources, instead focusing on issuing clear directives that grant maximum flexibility.**

Federal permitting requirements can also make competitive grant programs unattractive for applicants interested in carrying out simple projects that can erroneously trigger environmental reviews even when they are categorically excluded. Streamlining the federal permitting process is a longstanding priority of local governments, who bear the costs of unnecessary delays created by the decades-old process established under the National Environmental Policy Act (NEPA/P.L. 91-190).

NEPA must be tailored to meet its actual goal of protecting the environment and not its unintended consequence of delaying and sometimes even preventing the delivery of critical infrastructure for our residents, including after natural disasters. Unintended consequences resulting from the current NEPA process continue to degrade county budgets and delay even the simplest of projects that have little to no impact on the surrounding environment, such as sidewalk repair projects in an existing right-of-way (ROW). While categorical exclusions (CEs) are intended to address projects like this, in practice they may be disregarded for fear of litigation or other reasons, forcing a county to undergo the same process it would have without the exclusion.

Confusing matters further for local recipients, interpretations of CEs vary from agency to agency. From the Stafford Act (P.L. 100-707) to the IIJA, federal legislation is interpreted and implemented differently between its own agencies and regions. **Counties encourage lawmakers to apply a more uniform and broader approach to expedite existing infrastructure repairs and improvements, to local standards, to minimize the impact of delays to the public.** Maximizing the utilization of CEs to include the exemption of road and bridge repairs and improvements made within the existing, previously disturbed, public ROW stands to provide tremendous benefits to the public.

Additionally, as strong supporters of the One Federal Decision (OFD) initiative, counties were pleased to see elements of OFD codified by the IIJA and furthered in the Fiscal Responsibility Act (FRA/P.L. 118-5), though we are concerned by the White House Council on Environmental Quality's most recent rulemaking in response to the FRA, which threatens to weaken these provisions. The IIJA also improved CEs, though counties support further increases to these thresholds.

While federal permitting problems are a familiar source of frustration for local governments, an emerging issue among IIJA awards has become more pointed: the time it takes to execute a grant agreement. Counties and other eligible entities are reporting unprecedented timelines of up to 24 months, compounding the effects of permitting delays by further degrading federal and local investments and slowing down the delivery of critical projects. Counties strongly encourage USDOT to address this issue.

The county message is simple: get grant funds out as quickly as possible to the communities where they are needed most. In the current economic environment, construction materials are extremely expensive, and delays can result in unmanageable project cost increases. Inflation, combined with the four-year expiration date on most USDOT funds, can have disastrous consequences for the IIJA's investments.

Conclusion

In closing, I hope it has become evident that the safety and operability of county owned roads and bridges cannot continue to rely upon competitive funding opportunities. Counties urge you to provide a guaranteed funding source in the next surface transportation reauthorization.

Chairman Graves, Ranking Member Larsen and distinguished members of the Committee, thank you again for your attention to this important matter and the opportunity to testify before you today. America's counties greatly appreciate your continued bipartisan efforts to strengthen America's infrastructure.