

August 25, 2005

Memorandum

To: Director and Deputy Directors  
Regional and Associate Directors  
Comptroller

From: Associate Director – Park Planning, Facilities and Lands  
/s/ Sue E. Masica

Subject: Implications of the New Transportation Legislation for the National Park Service, 2005-2009  
**REPLY DUE: SEPTEMBER 9, 2005**

President Bush signed the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) into law on August 10, 2005. SAFETEA-LU is a comprehensive bill which funds various surface transportation programs at a total of \$286 billion over five years and includes many provisions relating to the NPS. Among the notable outcomes are the reauthorization of the Park Roads and Parkways Program (PRPP), a new alternative transportation program for parks and other public lands, funding for earmarked projects with possible NPS interest, and revisions to project planning and environmental processes.

This memo provides a summary overview of the provisions of the legislation, and requests your assistance in reviewing the earmarked projects funded in the bill.

**Park Roads and Parkways Program (PRPP)**. Section 1101(a)(9)(B) reauthorizes the PRPP through FY 2009 at an average annual funding level of \$210 million (see chart below), compared to the previous authorization of \$165 million annually. When considering inflation, the increase provides about the same basic purchasing power as was provided in TEA-21. The Administration had requested increased funding for PRPP (\$320 million annually), with the stated goal of improving the overall condition of park roads systemwide to good. Our preliminary analysis is that this goal will not be attainable with the lower funding levels enacted, which appear to be sufficient only to protect the existing system from further deterioration. The preservation of park road conditions (measured by pavement condition rating and/or facility condition index) will be a consideration in the development of the NPS multi-year program of projects to implement the bill.

SAFETEA-LU funding over the next five years is as follows:

FY 2005	\$180 million
FY 2006	\$195 million
FY 2007	\$210 million
FY 2008	\$225 million
FY 2009	\$240 million

Another change to the PRPP included in the legislation is the establishment of a minimum allocation of 3% to Alaska (an increase above the previous NPS administrative formula minimum guarantee of 2%).

There is no specific language in the PRPP section of the bill directing priority to certain types of park units and their roads. There is an earmark providing \$50 million over the life of the bill (subject to annual appropriations making the funds available) towards rehabilitation of Going-to-the-Sun Road (GTSR) at Glacier National Park (outside of PRPP). The legislative history is specific that these funds are a supplement to, not a replacement for, funds that NPS will administratively allocate towards rehabilitation of the GTSR.

Annual funding for the PRPP comes from the DOT annual appropriations. Policy and eligibility guidance is jointly developed and administered by FHWA and the NPS. The PRPP will continue to be adjusted by legislative takedowns imposed on the Federal Highway Administration to reconcile authorized funding amounts with obligation limitations. In previous years, these adjustments reduced the PRPP by approximately 10-15% annually.

PRPP funds will be used to continue the progress made during TEA-21: (1) protect the current system from deteriorating and improve conditions as much as possible within enacted funding levels, in support of the Presidential effort to address the maintenance backlog; (2) continue to make small strides towards finishing new construction on the Natchez Trace and Foothills Parkways; and (3) ensure continuity of the alternative transportation program until the new alternative transportation in parks and public lands program is well established. Policy, guidance and eligibility adjustments to program areas will be given in separate memorandums to follow. The PRPP will participate in the upcoming Servicewide Comprehensive Call to cover projects proposed for FY 2007 through 2011.

**Alternative Transportation In Parks and Public Lands.** A new cooperative Federal Land Management Agency transit program is established, to be managed by the Departments of the Interior and Transportation. The program is authorized an average of \$24 million annually (see chart below). The authorization is in the section of the bill dealing with transit programs, so it is possible that lead agency responsibility within DOT will fall to the Federal Transit Administration (FTA) rather than the Federal Highway Administration. It is not yet clear how DOI will choose to manage this new program. The law is clear that “The Secretary of the Interior ... shall determine the final selection....” Eligible agencies include the NPS, Fish and Wildlife Service, the Bureau of Land Management, the Bureau of Reclamation, and the Forest Service. The legislation provides guidance on the final selection and funding of an annual program of qualified projects. Project considerations include geographical diversity, variety of project sizes, safety, pollution and congestion reduction, and improvement of mobility.

Funding for this program over the next five years is as follows:

FY 2006	\$ 22 million
FY 2007	\$ 23 million
FY 2008	\$ 25 million
FY 2009	\$ 26.9 million

**Earmarks.** Several SAFETEA-LU sections earmark funding for Congressionally-directed priorities and projects. At last count, we identified over 100 for a total of some \$ 460 million with possible NPS interest (please see attached list). Our initial estimate of the dollar value of projects with a “direct” impact to NPS is approximately \$172 million. The highway bill provides **NO** funding for operations, or preventive maintenance, for any

of these capital investments. Some of the projects are new visitor centers; others are asset investments that will become NPS management responsibilities once constructed. Informal inquiries have already been made of NPS to (1) verify which projects will “affect” NPS and (2) to articulate the operational costs (programmatic and facility operations) that will result from implementation of those projects that will either become NPS assets or towards which NPS is expected to make an operational contribution.

The attached Excel spreadsheet identifies projects that appear to have an NPS connection. This is based on a best guess by WASO staff. Your assistance is needed in clarifying these projects. We are attempting to categorize projects as follows:

- (1) Direct NPS impact – asset becomes responsibility of NPS *or* NPS is expected to have a role in the operation and/or maintenance of the asset once constructed/acquired *or* NPS is expected to manage the funds/execution of the project. Examples: Fort McHenry visitor center; land acquisition easements; Grand Canyon greenway trails; and Foothills Parkway.
- (2) Indirect NPS impact – NPS role in implementation of the project is consultative in nature. No NPS role in managing project implementation. Project does not result in improvements to any assets that are the responsibility of NPS. Examples: new interchange at Maryland Route 4 and terminus of Suitland Parkway; Ohio and Erie Canal towpath trail in downtown Akron, Ohio, in the vicinity of Cuyahoga Valley National Park.
- (3) Tangential benefits/other interests – Project has potential to provide benefits to park resources or visitor experience, but not within the park or in a manner that is NPS responsibility. Project may be something NPS has provided pass-through funds previously. Examples: Togwotee Pass, Wyoming highway improvements; Morris K. Thompson Cultural Center, Alaska.

This list by no means is comprehensive and could possibly be in error due to the short explanation given by each project line item description. We presume that parks and regions may know more about some of these projects than WASO. Also, some may not be NPS projects at all. Please review the attached lists and provide comments, project clarifications, or other projects you may be aware of, to Commander Mark Anderson of my staff by email or telephone, 202-513-7024 by September 9, 2005.

Not all earmarks are created equal. Different sections of the bill have different provisions for the distribution and administration of the funds. FHWA is currently developing a comprehensive explanation for each of these sections which will be shared as soon as it becomes available. For example, many of these projects will benefit NPS but are the responsibility of the state where the project is located. Funds can only become available at an identified prorated percentage over the life of the bill, and the state will have to identify a match to fully fund the project in some cases.

**State and Metropolitan Planning Process.** Metropolitan Planning Organizations and States require strengthened consultation with Federal land management agencies. There is an opportunity to work with our partners outside park boundaries, such as state

and local governments and our gateway communities, to help us develop and implement transportation solutions that sustain and improve operations of transportation systems, enhance visitor safety, preserve our natural resources, and improve access. NPS staff, at all levels, should strive to participate in SAFETEA-LU provisions that encourage community participation and joint opportunities of mutual benefit to the NPS and surrounding communities.

**Environmental Requirements.** SAFETEA-LU has a number of changes to streamline the environmental review process. For example, a 180-day statute of limitations for lawsuits challenging Federal agency approvals is provided, but requires publishing environmental decisions in the Federal Register. SAFETEA-LU allows the Secretary of Transportation flexibility to allow an exemption from 4(f) requirements if a program or project will have a “de minimis” impact on the area. An example might be if key decision making participants concur there are no adverse effects.

**Surface Transportation Program (STP) and Enhancement Funds.** The Surface Transportation Program (STP) is funded through 2009 at \$32.5 billion. This program provides flexible funding for projects on Federal-aid highways, bridges on any public road, transit capital projects, and public bus terminals and facilities. Eligibility is expanded to include high accident/high congestion intersections, environmental restoration, pollution abatement, control of noxious weeds and aquatic noxious weeds, and establishment of native species. States are required to set aside 10% of STP funds for transportation enhancement activities.

**Recreational Trails Program.** The program continues through FY 2009 with total funding of \$370 million. The program is administrated by the Federal Highway Administration through state agencies. The funds can be used for all kinds of recreational trails use. Eligibility includes trail construction and maintenance (including equipment), trailside and trailhead facilities, acquisition or easements for trails, trail assessments, educational programs related to trail safety and environmental protection, and State administrative costs.

**Scenic Byway Program.** The program continues through FY 2009 with total funding of \$175 million. The program is administrated by the Federal Highway Administration. Grants are made to states and Indian Tribes to implement projects on highways designated at National Scenic Byways, All-American Roads, America’s Byways, State scenic or Indian tribe scenic byways; and to plan, design, and develop a State or Indian tribe scenic byway program.

**SAFETEA-LU Rollout and Communication.** We are committed, in partnership with FHWA, to providing frequent communication and information regarding the implications of this new legislation (over 1,700 pages in length). In addition, collaborating with the other Federal Land Management Agencies, we are exploring the possibility of one or more roll out conferences, but not until other communication technology such as telecasting and video conferences have been considered. This memorandum, copies of the SAFETEA-LU legislation, and various other transportation documents as well as follow up events and schedules will shortly be available on the NPS Transportation website at <http://www.nps.gov/transportation/alt/>. Questions regarding SAFETEA-LU can be forwarded to Mr. Mark Hartsoe, 202-513-7025.

Attachment (earmark listing)