$2 BILLION IN UNUSED EARMARKS NOW AVAILABLE FOR TRANSPORTATION INFRASTRUCTURE PROJECTS

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Eligible transportation projects in need of funding now have the opportunity to access roughly $2 billion in previously earmarked federal transportation under recently released guidance from the U.S. Department of Transportation ("DOT"). Through "repurposing", state and local governments can work together to give life to old earmarks not otherwise being used to fund transportation infrastructure projects without having to go through the regular legislative process again.

The K&L Gates transportation policy practice group is prepared to assist project stakeholders by working with state and local governments, the Federal Highway Administration ("FHWA"), and members of Congress to put these unused funds to work.

$2 BILLION IN UNUSED EARMARKS AVAILABLE FOR "REPURPOSING"

Recently, the DOT released implementation guidance on a provision in the Consolidated Appropriations Act of 2016 that allows states and territories to repurpose certain unexpected funds previously earmarked for other transportation projects.[1] Some of the earmarks included on the list were authorized as far back as 20 years ago and could now be used for a range of new surface transportation projects.

The DOT has provided a guidance memorandum and a list of earmarks that may be eligible for repurposing. States are encouraged to work with the FHWA to ensure that earmarked funds meet the repurposing eligibility criteria.[2] If so, states submit a transfer request to the FHWA to repurpose eligible earmarks.[3]

States have until the end of fiscal year 2016 to repurpose eligible funds for projects within 50 miles of the original earmark purpose, and states electing to repurpose funds will have until September 30, 2019 to obligate the funds. States must provide quarterly reports to the FHWA once funds have been repurposed.

OTHER FUNDING OPPORTUNITIES AVAILABLE

In addition to repurposed funds, the DOT has a number of other funding opportunities, including $800 million for nationally significant freight and highway projects under the FASTLANE grant program, $500 million in Transportation Investment Generating Economic Recovery grants for transportation projects, and up to $72.5 million under the University Transportation Centers for innovative transportation solutions.

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WE CAN HELP

K&L Gates is uniquely situated to help project stakeholders identify eligible earmarks and projects and work with the federal government to repurpose funds to invest in and stimulate state and local transportation infrastructure. In addition, we can help project sponsors build support and submit applications for other DOT funding opportunities for their projects.

With more than 40 years of experience representing clients on transportation infrastructure matters before Congress and federal agencies, K&L Gates is known for being thought leaders on these issues and has regularly been tapped by Congress and industry groups to help develop solutions to broad sets of infrastructure-related challenges. Our team includes a former United States Senator, two former Congressmen, three former Senate Commerce Committee transportation counsels, the former deputy staff director of the House Transportation and Infrastructure Committee and chief of staff to the Chairman, and the former director of the Office of Legislative Affairs at the Federal Highway Administration and former deputy assistant administrator at the Environmental Protection Agency.

Notes:

[1] Department of Transportation Appropriations Act, 2016, Pub. L. No. 114- 113, Division L, Title I, § 125, 114th Cong. (2015).

[2] See *Earmark Repurposing*, FED. HIGHWAY ADMIN., DEP'T TRANSP., http://www.fhwa.dot.gov/cfo/earmarkrepurposing/ (last visited Mar. 8, 2016).

[3] *FY 2016 Earmark Repurposing Process*, FED. HIGHWAY ADMIN., DEP'T TRANSP., http://www.fhwa.dot.gov/cfo/earmarkrepurposing/process.cfm (last visited Mar. 8, 2016).

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