

**Notice of Funding Opportunity (NOFO) Highway Use Tax Evasion Assistance
Announcement; Funding for Fuel Tax Intergovernmental Efforts FY 2020**

A. Program Description

The Highway Use Tax Evasion (HUTE) Program provides funding to the Internal Revenue Service (IRS), and the States to assist the IRS and States to carry out intergovernmental fuel excise tax enforcement efforts and funding for training and research to reduce evasion of payment of motor fuel and other highway use taxes.

The Fixing America's Surface Transportation (FAST) Act (Public Law 114-94) was signed into law on December 4, 2015. Section 1110 of the FAST Act amends 23 U.S.C § 143 and authorizes contract authority funding not to exceed \$4 million per fiscal year derived from the Highway Trust Fund for highway use tax evasion projects to further enhance compliance with motor fuel and highway use taxes. Of this funding funds allocated to the IRS and States may be allocated at the discretion of the Secretary, except that \$2 million for each fiscal year must be made available only to carry out intergovernmental enforcement efforts, including research and training. This NOFO announces funds for the intergovernmental enforcement efforts for fuel tax evasion and includes funding from Fiscal Years (FY) 2017, 2018, 2019, and 2020. The Federal Highway Administration (FHWA) administers the program on behalf of the Secretary of Transportation.

The FHWA has provided funding to the States for enforcement efforts since the early 1990s and has been providing discretionary grant awards since 2006.

Previous awards have been used to establish new programs for testing fuels, expanding the use of electronic tracking of fuel movement, and for various training and research initiatives. Reports from the awarded agencies have shown increased revenue and assessments in the areas targeted. Applicants are encouraged to work with other agencies, and resources may be combined and information exchanged which often proves valuable in identifying parties engaged in fuel tax evasion provided the recipient maintains adequate documentation to establish that the funding provided under the NOFO benefits Highway Use Tax enforcement efforts.

B. Federal Award Information

For this notice of funding opportunity (NOFO), FHWA will have up to \$8,000,000 in Federal assistance available for award to State recipients. The average number of applicants applying for these funding opportunities has historically ranged from 18 to 20 applications per announcement, with an average of 15 projects awarded funding. Given the funding available for award, the minimum funding awarded per project has been \$10,000 and the maximum funding awarded has been \$250,000, FHWA may exceed this maximum amount as Congress has left the amount allocated to intergovernmental enforcement efforts to the discretion of the Secretary.

The anticipated award process would allow for periods of performance to start after the date of obligation through the project end date depending on the type of work being performed. On average, the performance period is about 3 years.

Applications for renewal or supplementation of existing projects will be considered, but are not guaranteed to be awarded. The benefits associated with continuing the activity is considered as part of the evaluation process.

The Federal assistance will be awarded by issuance of a grant agreement for which the recipient (awarded agency) will be responsible for the performance and reporting of the progress of the project or activity being funded. If the agency responsible for performance of the work is not a State Transportation Agency (e.g. State Revenue Agency, State Police or Enforcement Group, etc.) reimbursement will generally be dependent upon that agency's working agreement with the State Transportation Agency.

C. Eligibility Information

1. Eligible Applicants

Eligible applicants are State transportation agencies from States, as defined in 23 U.S.C. 143(a), which includes the 50 United States and the District of Columbia. Under 23 U.S.C. 302 and 23 CFR 1.3, Federal-aid highway funding is awarded to the State transportation agency; State transportation agencies, in turn, may make a sub-award to another agency within the State.

2. Cost Sharing or Matching

The Federal share of the cost of a project carried out under this subsection shall be 100 percent. Cost sharing is not required.

3. Other

There is no limitation on the number of applications that may be submitted by an eligible applicant.

Funds made available under this NOFO are available for intergovernmental enforcement efforts, including research and training, and shall be used only -

- (a) to expand efforts to enhance motor fuel tax enforcement;
- (b) to supplement motor fuel tax examinations and criminal investigations;

- (c) to develop automated data processing tools to monitor motor fuel production and sales;
- (d) to evaluate and implement registration and reporting requirements for motor fuel taxpayers;
- (e) to reimburse State expenses that supplement existing fuel tax compliance efforts;
- (f) to analyze and implement programs to reduce tax evasion associated with other highway use taxes;
- (g) to support efforts between States and Indian Tribes to address issues relating to State motor fuel taxes;
- (h) to analyze and implement programs to reduce tax evasion associated with foreign imported fuel;

Maintenance of effort. - The Secretary may not make an allocation to a State under this program for a fiscal year unless the State certifies that the aggregate expenditure of funds of the State, exclusive of Federal funds, for motor fuel tax enforcement activities will be maintained at a level that does not fall below the average level of such expenditure for the preceding 2 fiscal years of the State.

D. Application and Submission Information

(a) Address to Request Application Package

Applications will be submitted through the Website: <http://www.grants.gov>

If you have ever applied for a Federal Grant through the grants.gov Website in the past, note that the functionality has changed, effective January 1, 2018. Applicants will now use Workspace at the grants.gov site. This process will change how the applicants access, and complete the application forms.

It is imperative that applicants review the instructions and guidelines for using Workspace before accessing the grant opportunities. Grants.gov has a YouTube channel at <https://www.youtube.com/channel/UCC7tRM0vKkTMpxucO7iYPzQ> that will have a series of videos to assist with this process. In addition, the FHWA Office of Highway Policy Information will have links to individual videos on their Webpage at <https://www.fhwa.dot.gov/policyinformation/> that will assist the applicant.

All application materials may be found on the grants.gov Website at <http://www.grants.gov>.

Once at www.grants.gov, you should select the Search Grants tab. You can then enter either or both:

- Opportunity Number: **FHWA-HUTE-2020-01**
- Opportunity Name: **Highway Use Tax Evasion – Intergovernmental Efforts**
- CFDA Number: **20.240**

You will then select the Opportunity and you will be taken to a page with several tabs. The first tab is a synopsis of the opportunity. When you select the Application Package tab, you will be given the opportunity to download the forms needed for the full application. While

the forms and navigation is rather intuitive, grants.gov provides robust help and training materials to assist.

If you do not have access to the Internet, you can request paper copies of the application forms from:

Michael Dougherty
1200 New Jersey Ave, SE
Room E83-409
Washington, DC 20590
Phone: (202) 366-9234
Fax: (202) 366-3297
TTY: (800) 877-8339

As this opportunity requires substantial changes to the processes used in previous opportunities under this program, it is strongly suggested that entities interested in applying under this announcement participate in a webinar hosted by the Grant Program Office. The details of that webinar are as follows:

Thursday, April 2, 2020

Time: 2:00 pm (EDT)

To join the meeting: <https://connectdot.connectsolutions.com/hute2020/>

Dial-in number: (877) 336-1829

Participant Code: 6233804

Those planning on participating in the webinar should check their ability to access the Adobe Connect Software. Participants will be able to call in if they are not connected to the video part of the webinar. A recording of the webinar will be made available, likely within a day or two of the event.

(b) Content and Form of Application Submission

The application package shall consist of the following:

- SF424-Short Form
- Project Abstract
- SF424A – Budget Information – Non-Construction Programs

Completion of the SF424-Short Form and the Project Abstract are mandatory. Eligible applicants are State transportation agencies from States, as defined in 23 U.S.C 143(a), which includes the 50 United States, and the District of Columbia.

(c) DUNS Number and System for Award Management (SAM)

Each applicant is required to:

- (i) Be registered in SAM before submitting its application;
- (ii) Provide a valid unique entity identifier in its application; and

- (iii) Continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency.

The FHWA may not make a Federal award to an applicant until the applicant has complied with all applicable unique entity identifier and SAM requirements. If an applicant has not fully complied with the requirements by the time the Federal awarding agency is ready to make a Federal award, the Federal awarding agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

The SAM requires the registrant to provide a DUNS number in order to complete the registration. SAM is transitioning to a new process that will require the entity to acquire a UEI number in SAM starting in December 2020. Visit <https://www.gsa.gov/about-us/organization/federal-acquisition-service/office-of-systems-management/integrated-award-environment-iae/iae-information-kit/unique-entity-identifier-update>, for information regarding the UEI process.

(d) Submission Dates and Times

This NOFO requires one submission. The deadline for the completed application package will be **(Friday, May 22, 2020)** and is based on the date that the NOFO is published. The deadline cited herein is the date and time by which the agency must receive the application.

The FHWA uses www.grants.gov for receipt of all applications. In the event of system problems or technical difficulties with the application submittal, applicants should contact the FHWA point of contact designated in the announcement. Late applications will not be reviewed or considered unless it is determined it is in the Government's best interest to consider the application. In the case of a failure in part or whole to process the application package through the grants.gov site, and in the case of an approved alternative submission format, such as through United States Postal Service, commercial carrier, electronic mail (e-mail), or other method, the deadline date and time will apply to the applicable time for the submission, such as a postmark.

The applicant will receive automated messages from the grants.gov system when their application is received in the system after passing some basic tests. They will also be notified when the FHWA Office of Highway Policy Information, who manages the program, downloads a correctly submitted application package.

(e) Intergovernmental Review

This NOFO is subject to Executive Order 12372, "Intergovernmental Review of Federal Programs". Not every State participates in this review process, but in the case of those that do, you should contact your State Point of Contact (SPOC) to find out about, and comply with the State's process under Executive Order 12372. The names and addresses of the SPOCs are listed in the Office of Management and Budget's Website https://www.whitehouse.gov/omb/grants_spoc/.

(f) Funding Restrictions

There are no limitations on the inclusion of direct or indirect costs (**except that an approved indirect cost rate is a precondition for the agency claiming indirect costs under a Federal award**; 2 CFR 200, Appendix VII, States and Local Government and Indian Tribe Indirect Cost Proposals) and allowable activities are included in the defining statute at 23 U.S.C. 143. Pre-award costs are not allowed under this program.

(g) Other Submission Requirements

No other documentation is required other than the full application package on grants.gov. If any technical issues preclude the required electronic submission of the application, please contact the person named in part (a) of this section for further instructions.

E. Application Review Information

1. Criteria

Applicants are encouraged to submit innovative proposals to reduce fuel tax evasion and increase collaboration and coordination among several public agencies, including Federal agencies. Research and training proposals are also eligible. If any proposal involves more than one State, one State would be designated as the lead State for the project and would be responsible for filing the application and coordinating the work of all the participants. Any project reports would also be compiled by the lead State.

The proposed activities should concentrate on the identification and reduction of highway use tax evasion, which would result in increased revenue at the State and Federal level. Any resulting increase would result in additional funds that could be used for expansion and maintenance of the highway systems, and thus increase the efficiency of the surface transportation system.

(a) Merit Criteria

(1) Supporting economic vitality at the national and regional level. By finding instances of lost revenue through tax evasion, and thus assessing the evaded taxes, and stopping the evasive efforts, this program will increase the amount of revenue at the State levels, which then can be used for further investments by those States in transportation-related initiatives. In addition, the findings are shared by the States with the IRS, which may increase the revenue to the Highway Trust Fund. The Department will give special consideration to applications that propose to use evidence-based approaches to recover, or prevent the evasion of, the most revenue per HUTE assistance dollar requested.

(2) This program encourages innovation in the proposals submitted by applicants for HUTE assistance, and preference may be given to proposals that include additional either alternate sources of funding or technology innovation. Innovation may include new methods of analyzing data, incorporating new sources of data, and combining the resources of multiple agencies, such as tax and enforcement. The results of such innovation may lead to new efforts by the other revenue agencies, resulting in increased infrastructure investment.

(3) Holding grant recipients accountable for their performance. Using the required annual reports, the recipients will include measurable outcomes that can be compared to the estimated outcomes in the original application. Decisions on the success of the initiatives will be based on those reported results. The statute does allow for training and research, and thus some projects may not have specific measurables.

When developing the proposals, consideration should be given to being able to measure the outcomes of the initiatives. Thus, any proposal should include the identification of measurable outcomes and how they will be measured.

The evaluation of the submitted applications will be performed by a team of reviewers from FHWA and the IRS. Each reviewer will evaluate the proposals based on:

- Completeness
- Evasion Enforcement Potential
- Innovation
- Estimation of Risk of Failure of Project
- Intergovernmental Inclusion

Alternatively, those proposals that are primarily for training opportunities, which are authorized explicitly by statute, will be considered for their potential to instruct methods that will identify and reduce fuel tax evasion. Cost sharing will not be considered in the evaluation.

2. Review and Selection Process

The U.S. Department of Transportation (DOT) reviews all eligible applications received by the deadline. The HUTE grants review and selection process consists of a Technical Review and a Senior Review. In the Technical Review, teams comprising staff from the Office of Highway Policy Information and other offices within FHWA, along with staff from the IRS will review all eligible applications and rate projects based on how well the projects align with the selection criteria stated above. The Senior Review Team, which includes senior leadership from FHWA determines which projects to advance to the Secretary. The Secretary selects from those projects for final awards.

3. Notification

For any Federal award under a notice of funding opportunity, if the Federal awarding agency anticipates that the total Federal share will be greater than the simplified acquisition threshold on any Federal award under a notice of funding opportunity may include, over the period of performance (see § 200.88 Simplified Acquisition Threshold), this section must also inform applicants:

- i. That the Federal awarding agency, prior to making a Federal award with a total amount of Federal share greater than the simplified acquisition threshold, is required to review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently FAPIIS) (see 41 U.S.C. 2313);
- ii. That an applicant, at its option, may review information in the designated integrity and performance systems accessible through SAM and comment on any information about itself that a Federal awarding agency previously entered and is currently in the designated integrity and performance system accessible through SAM;
- iii. That the Federal awarding agency will consider any comments by the applicant, in addition to the other information in the designated integrity and performance system, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in § 200.205 Federal awarding agency review of risk posed by applicants.

F. Federal Award Administration Information

1. Federal Award Notices

Following evaluation and upon selection, the successful applicant will receive written notice of the award from FHWA's Office of Highway Policy Information as an attachment to e-mail directed to the address of the primary contact as submitted on the required Form 424 included with the application. Shortly afterward, a project agreement (FHWA Form 1548) will be sent to the primary contact for signature. Once the authorized representative from that agency signs two copies of the form, they will retain one copy for their records and forward one to the local FHWA Division Office. Obligation of the funds will take place once the FHWA Division Administrator signs the agreement. The notice will include all the information required in 23 CFR 200.210.

At the same time, the selected applicants are notified, a letter will be sent, also attached to an e-mail, notifying them that they were not selected for award through this advertisement.

2. Administrative and National Policy Requirements

All awards will be administered pursuant to 2 CFR 200, as adopted by DOT at 2 CFR 1201. The administrative policy requirements are listed in the FHWA Form 1548, Project Agreement for the Joint Federal/State Motor Fuel Tax Compliance Project. Applicants may wish to review this document before applying to assure that they can meet the requirements. Copies of the agreement can be obtained by contacting the primary office for the program:

Michael Dougherty
1200 New Jersey Ave, SE
Room E83-409
Washington, DC 20590
Phone: (202) 366-9234
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3. Reporting

An annual report shall be submitted no later than 60 days after the end of each Federal fiscal year (September 30). The annual report shall include a narrative report that describes the projects carried out under this agreement and shall specify the estimated annual yield from such projects along with an expenditure summary. The final performance and financial summary report (if this agreement is not continued) shall be submitted by the State no later than 60 days after the termination of the period of performance. The final report shall include a discussion of the accomplishments of the project, an expenditure summary by cost category, and a summary of any audit findings or plans to address the audit requirements of Article 3 of the General Provisions of the Agreement.

G. Federal Awarding Agency Contacts

If there are any questions regarding the application and award process, they may be addressed to:

Michael Dougherty
1200 New Jersey Ave, SE
Room E83-409
Washington, DC 20590
Phone: (202) 366-9234
Fax: (202) 366-3297
TTY: (800) 877-8339

H. Other

There have been various programs that have provided awards to States for efforts to combat fuel tax evasion since the early 1990's. The competitive discretionary grant format has been used to advertise and award the grants since 2006. The 2017-2020 award is a continuation of the program.

Any funds administered under this program shall be used in accordance with the specifications in 2 CFR 200 Subpart E-Cost Principles <http://www.ecfr.gov/cgi-bin/text-idx?SID=616a6a6c9a0b52b7bbf48e027a88a1b7&mc=true&node=sp2.1.200.e&rgn=div6>. Alternatively, you may go to the Electronic Code of Federal Regulations Website at www.ecfr.gov and navigate to Title 2 (Grants and Agreements), Subtitle A, Chapter II, Part 200, Subpart E.

This program is administered by the FHWA's Office of Highway Policy Information. Additional information regarding that office's initiative, including additional information on fuel tax evasion enforcement initiatives can be found at <http://www.fhwa.dot.gov/policyinformation/motorfueldata.cfm>.

Details of the HUTE Program, as authorized under the current Surface Transportation Authorization, the FAST Act, can be found at <https://www.fhwa.dot.gov/fastact/factsheets/highwayusetaxevasionfs.cfm>

Highway Use Tax Evasion (HUTE) Intergovernmental Grant Proposal Analysis and Selection Process – FY 2020

Introduction/Background

The Highway Use Tax Evasion (HUTE) Discretionary Grant Program, aids the Internal Revenue Service (IRS) and State agencies in identifying sources of, and reducing incidents of, the evasion of fuel taxes. As these taxes are the primary source of revenue for the Highway Trust Fund and State transportation revenues, it is important to collect all the funds that are due to the agencies. While this program became a discretionary grant program in 2005, under the SAFETEA-LU authorization, it started as a research project in various forms in the early 1990s. Under the current authorization, the Fixing America's Surface Transportation Act, for each year from 2016 through 2020, up to \$4 million may be used in these efforts. As detailed in 23 United States Code (U.S.C.) 143, up to \$2 million of the funds should be used for intergovernmental efforts (to State agencies) and, if the full program is budgeted, an additional amount up to \$2 million may be transferred to the IRS for their efforts. The IRS portion is a direct award, while the process described here is for the discretionary grants. The statute outlines the acceptable uses of the funding awards as follows (from 23 U.S.C. 143):

Eligible Use of Funds

Funds under this section may be used to:

- expand efforts to enhance motor fuel tax enforcement;
- fund IRS staff activities related to motor fuel tax enforcement;
- supplement motor fuel tax examinations and criminal investigations;
- develop fuel tax data processing tools;
- evaluate and implement registration and reporting requirements for motor fuel taxpayers;
- reimburse States for supplementing existing fuel tax enforcement activities;
- analyze and implement programs to reduce other highway use tax evasion;
- support efforts between States and Indian tribes to address State motor fuel tax issues; and
- analyze and implement programs to reduce tax evasion associated with foreign imported fuel.

The applicants are encouraged to include multiple agencies and jurisdictions in their proposals. The evasion that happens at the State level can take different paths, but some types of evasion involve fuel crossing State and national borders. While the primary collectors of fuel taxes in the States are predominantly revenue agencies, in some cases, fuel taxes are collected by transportation or other agencies. The requests for funding may come from these, or other agencies, such as highway safety and enforcement bureaus. When applying for the grants, the applicants are instructed to include detailed descriptions of their proposed efforts, including work plans, timelines, and estimated budgets by expense type. They are also made aware that, based on the requirement for annual and closing reports, that detailed record keeping is required.

This document provides guidance that will be used when evaluating the applications for the HUTE grants and the expected responsibilities of those reviewing the proposals.

HUTE Review Overview

The US Department of Transportation (DOT) will review all eligible applications received before the deadline. Applications are checked for inclusion of all required documentation, including support documents such as budgets and abstracts. Due to the relatively small pool of applicants, this process is completed by the program manager. The applications are downloaded and, in previous years, all documents from each proposal have been combined into one PDF file for ease of review by the review team.

In anticipation of the closing date, a team is empaneled representing FHWA and IRS employees who will serve as the Review Team. The FHWA does not have a large group of people who understand issues of fuel tax collection and evasion, so, as has been done since this became a discretionary grant program, we ask for IRS assistance.

The application packages are then distributed to the Review Team. An initial meeting is held in person for most, but for the convenience of the IRS members of the Review Team, some of whom may not be stationed in the District of Columbia metro area, some will participate by teleconference. During this initial meeting, an outline of the process is presented, including expected action dates, and review of the guidance and rating forms that will be used. Depending on the number of applications received, a follow-up meeting is set. In an average year, 15 to 18 applications will be received.

The reviewers are then asked to rate each proposal in one of four categories: Highly Recommended, Recommended, Acceptable, or Not Recommended, along with explanations for the rating. The ratings will be based on how well the proposals align with the selection criteria. The team will then meet once more to review the ratings and, if needed, prioritize proposals in situations where their requested amounts exceed the available funds. The selections are then entered into the prescribed table for review by FHWA and the Office of the Secretary of Transportation (OST). The table consists of the following columns:

- **State Name**
- **Project Name and Description:** Short narrative describing the project including the types of activities (field enforcement efforts, IT enhancements, capital equipment purchases, etc.)
- **Rating:** Highly Qualified, Qualified, or Not Qualified
- **Requested Amount:** \$8,000,000
- **Proposed Funding Amount:** Amount recommended by review team
- **Proposed Funding Rationale:** Short narrative on why this proposal should or should not be considered for funding

FINAL SELECTION PROCESS

The review and proposed award table is circulated through FHWA and OST for review, and any questions are directed to the program manager. Once they are answered, and the Secretary has approved any or all selections, the States are contacted, and further processing, including letters of award, project agreements (to be signed by the authorized representative of the State agency), and several other guidance documents are sent.