

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
AND THE
UNITED STATES DEPARTMENT OF LABOR

I. BACKGROUND

In America, we can build great things, together. There are historic new funds to build roads, bridges, rail, transit, and more. The country needs to draw upon all of the talented and skilled workers– and the Biden-Harris Administration wants to help them do their part.

In November, Congress passed, and the President signed, the Bipartisan Infrastructure Law, a once-in-a-generation investment in America’s infrastructure and competitiveness. The infrastructure law will rebuild America’s roads, bridges, and rails, expand access to clean drinking water, ensure every American has access to high-speed internet, tackle the climate crisis, advance environmental justice, and invest in communities that have too often been left behind.

A critical priority for the President in this investment in American infrastructure is to create good-paying jobs that offer workers the free choice to form a union. An expansion of good jobs will grow the economy sustainably and equitably so that everyone gets ahead.

Infrastructure and transportation represent more than one out of every ten American jobs. There is an urgent need to create pathways to high-quality jobs as the infrastructure law unlocks hundreds of billions of dollars in new investments to be funded by the Department of Transportation and creates a need for construction and maintenance workers and other skilled tradespeople, train and bus operators, and so many more. To ensure these new resources create pathways to good-paying jobs with the free choice to form a union – and that America’s workers have everything they need to deliver on this historic investment – the U.S. Department of Transportation (“DOT”) and U.S. Department of Labor (“DOL”) agree that there is a need for highly-aligned efforts to attract, retain, and empower diverse qualified workers to build and maintain our transportation system.

II. PURPOSE

The purpose of this Memorandum of Understanding (“MOU”) is to promote cooperative efforts between DOT and DOL (the “Departments”) to create and support pathways to millions of good-paying infrastructure and transportation jobs with the free choice to form a union as historic investments ramp up as a result of the infrastructure law. This cooperative effort will place an emphasis on drawing on the strength and creativity of every worker in America - including recruiting, training and retaining a more diverse workforce, and bringing in people who have not had the opportunity to attain good-paying infrastructure jobs.

III. OBJECTIVES

The Departments enter into this MOU to leverage the individual and combined resources and expertise of both agencies to ensure the actions necessary to meet common goals related to expanding equitable access to quality jobs for workers and communities in the development and modernization of American infrastructure. This MOU supports both Departments' efforts, where permissible and consistent with available appropriations and authorities, to:

- Assist State and local government partners as well as private-sector industry who can identify, train, employ, reskill, and retain the diverse workforce needed to rebuild and operate American infrastructure.
- Integrate job quality, labor standards and equal employment opportunity standards across all grants related to transportation infrastructure.
- Leverage Federal spending to create more good-paying jobs in fair and safe workplaces that include health, retirement, and other essential benefits, and offer workers a free choice to form a union.
- Create a more diverse infrastructure workforce. Infrastructure jobs remain highly segregated. Black, Indigenous, and people of color (BIPOC) and women are underrepresented and concentrated in lower paying, less safe, non-unionized jobs in the sector. Other groups that face systemic barriers to employment, including people with disabilities, people with legal system involvement, and members of the LGBTQ+ community, also have not had equitable access to these jobs. DOT and DOL will both work to address occupational segregation and give a more diverse workforce access to these higher-paying jobs.
- Engage stakeholders and develop strategic partnerships with organizations that can draw on all of America's strength, talent and skill, including coalitions that represent women, BIPOC, and other populations facing systemic barriers to employment to support the design and implementation of proven workforce development strategies that train and support the workers needed for the successful delivery of infrastructure investments. This includes the expansion of Registered Apprenticeship in high growth areas such as electrification, zero-emission transportation systems maintenance, bus, rail, truck operators as well as cyber-security and intelligent transportation systems technology.

IV. AUTHORITIES

As DOT and DOL collaborate, each will draw on their unique authorities and funding, including new authorities and programs under the infrastructure law. DOT will draw on considerable new funding and programs to invest in infrastructure; and DOL will draw on its strength and experience in encouraging high-quality jobs and its investments in equitable workforce development. Specific authorities that DOT and DOL will seek to coordinate for the Purpose and Objectives include, but are not limited to:

Department of Transportation:

- Section 504(e) of title 23, United States Code, as amended by Infrastructure Investment and Jobs Act (“IIJA”) Section 13007, which provides authority to allow States greater flexibility among Highway formula programs to address surface transportation workforce development, training, apprenticeship, and education needs, including activities that address current workforce gaps on construction projects.
- Grants for the buses and bus facilities program under the title 49, United States Code, Section 5339(c) and section 5339(b) programs, which require submission of a zero-emission fleet transition plan, including an examination of the impact of the transition on the applicant’s workforce, identifying new skills and training needs and organizing training to support existing workers.
- IIJA Section 25019 allows for expanded use of economic hiring preferences and requires the Secretary of Transportation to study means to increase the diversity of the transportation workforce, including examining the use of pre-apprenticeship programs and local hiring preferences.
- IIJA Section 23007 requires the establishment of the Women of Trucking Advisory Board to identify barriers and industry trends that directly or indirectly discourage women from pursuing and retaining careers in trucking and examine ways to facilitate support for women pursuing careers in trucking including training and outreach programs. Section 23009 establishes the Truck Leasing Task Force to investigate predatory truck leasing arrangements that dissuade drivers from entering or staying in the industry. The Truck Leasing Task Force is required to be stood up in collaboration with DOL. DOT and DOL have already begun to work collaboratively on both task forces and on issues of job quality and inclusion in the trucking industry more broadly.
- IIJA Section 23022 requires the establishment of a pilot program to enable employers to train under 21 drivers for their commercial driver licenses and also requires DOT to conduct a study on driver detention time and driver compensation. DOT and DOL have already begun to collaborate on both of these initiatives, including aligning the implementation of the *Safe Driver Apprenticeship Pilot Program* with the requirements of the Registered Apprenticeship system and developing a statement of work to jointly oversee the studies on detention time and compensation.
- In general, new relevant funding authorities and advance appropriations for infrastructure investments under IIJA.
- Encouragement of project labor agreements on construction projects funded by DOT, as set forward under E.O. 13502, “Use of Project Labor Agreements for Federal Construction Projects.”
- Workforce development grants from the Federal Transit Administration (49 U.S.C. § 5314).
- Funding allocated under 23 USC 140(b) that states may use to address diversity in the workforce, including skills training and summer transportation institutions for youth.

Department of Labor:

- Enforcement of federal wage and labor standards through the Wage and Hour Division including: 29 U.S.C. §§ 201, *et seq.*; 29 U.S.C. §§ 2001-2009; 29 U.S.C. §§ 2611-2654; 40 U.S.C. §§ 3141 *et seq.*; 15 U.S.C. §§ 1671-1677; *see also* 29 CFR § 5.1 (“Related Acts”);-Executive Order (E.O.) 13658, Establishing a Minimum Wage for Contractors; E.O. 13706, Establishing Paid Sick Leave for Federal Contractors.
- Expertise of the Office of Federal Contract Compliance Programs in enforcing labor standards in Federal contracts: for employers doing business with the Federal government including:
 - E.O.11246, Sec. 205 as amended, Equal Employment Opportunity, at 41 CFR part 60-1 and part 60-4; Public Law (P.L.) 81-152, 63 Stat. 377; Section 503 of the Rehabilitation Act, 29 U.S.C. § 793; Section 4212 of the Vietnam Era Veterans’ Readjustment Assistance Act, 38 U.S.C. § 4212; 41 U.S.C. §§ 6701-6707; 41 U.S.C. §§ 6501-6511
 - Programs to protect workers’ right to organize and collectively bargain including:
 - Office of Labor-Management Standards: E.O. 13496, Notification of Employee Rights Under Federal Labor Laws;
- Office of Labor Management Standards: U.S.C. 49 § 5333(b).
- Workforce development programs funded and administered by the Employment and Training Administration to support job training and workforce development services including: 29 U.S.C. § 3101, *et seq.*; 29 U.S.C. § 50; 29 U.S.C. § 49, *et seq.*; 19 U.S.C. § 2271, *et. seq.*
- Programs operated by the Women’s Bureau including those focused on getting women into non-traditional occupations including: 29 U.S.C. § 13.
- Programs operated by the Office of Disability Employment Policy that focuses on increase workplace success for people with disabilities including: 29 U.S.C. § 557b.
- Programs operated by the Veteran Employment and Training Service that assist veterans, reservists, and National Guard members in securing employment including: 38 U.S.C. §§ 2021, 2021A, 2023, 4102A, 4103A, and 4104.

V. JOINT RESPONSIBILITIES OF THE DEPARTMENTS

- A. **Strategic Partnerships and Stakeholder Engagement:** Subject to available authorities and appropriations, the Departments will support the development of strategic partnerships with organizations and coalitions that can help connect workers to good-paying jobs, including organizations that represent workers who are underrepresented in infrastructure jobs so that these workers can be engaged in the design and implementation of infrastructure workforce investment strategies. Specifically, the Departments will collaborate to:
- Jointly engage key stakeholders and implement a process for informing workforce strategy design and gathering feedback from communities on the responsiveness of these investments to the needs of underrepresented workers and communities.
 - Jointly engage State and local governments to advance shared job-quality and equity priorities in the infrastructure workforce.

- Jointly engage philanthropies interested in workforce, job quality, and infrastructure investments on how they can support and amplify the Departments' efforts including by supporting States and localities to use funding available to advance equitable workforce development strategies.
- Document and disseminate best practices and profiles of success in national, State, and local efforts that are addressing barriers to access to, and retention and progression in, quality jobs in infrastructure.
- Any other items identified as appropriate as mutually agreed to.

B. Job Quality, Standards and Metrics, Workplace Equity and Inclusion: Subject to available authorities and appropriations, the Departments will support job quality across investments and grants related to infrastructure and transportation jobs, which ensures diverse workers will benefit from safe and healthy, good-paying jobs with benefits, and a free choice to form a union Specifically, the Departments will collaborate to:

- Integrate job quality standards into DOT's infrastructure and transportation investment projects, grants, and procurement processes. This would build on DOT's existing efforts to encourage project-labor agreements and local hire.
- Promote compliance with applicable prevailing wage requirements, including but not limited to Davis-Bacon and Related Acts' labor standards as permitted by statute.
- Develop mechanisms to support unionized workers and ensure that workers have a free and fair opportunity to unionize.
- Develop ways to leverage flexibility around local and economic hiring in DOT funding opportunities, setting clear expectations and establishing accountability mechanisms and designing incentives for hiring and retaining underrepresented populations.
- Develop best practices for creating fair and safe workplaces that promote the retention of underrepresented populations.
- Identify critical occupations and industries where infrastructure funding can be leveraged to enhance job quality to support stable, resilient, and equitable workforces.
- Address workplace harassment and discrimination by requiring grant recipients and contractors to comply with existing equal opportunity standards, adopt workplace standards, accountability, and training to combat on-the-job hostility and harassment including harassment that may result from an employee's report on misuse of government funds.
- Jointly design evaluation plans and establish methods of capturing key job quality characteristics for infrastructure and transportation jobs from government statistical surveys, as well as the demographics of workers holding those jobs, as a way to measure the success of joint efforts.
- Any other items identified as appropriate as mutually agreed to.

C. Equitable and Effective Workforce Development: Subject to available authorities and appropriations, the Departments will support the creation and expansion of high-quality and equitable workforce development programs that connect workers and communities to

quality infrastructure and transportation jobs. Specifically, the Departments will collaborate to:

- Identify the highest priority geographic and sectoral workforce shortfalls to enable more focused partnership with DOL and the private sector.
- Align infrastructure projects and funding with proven workforce development practices and workforce investments to deliver training and services needed to link workers and communities to quality jobs, including underrepresented workers and communities. DOT and DOL will make available guidance on how State and local funding could be leveraged for these practices. DOT and DOL will also encourage workforce development activities for infrastructure jobs through selection processes in appropriate discretionary grant programs.
- Encourage and incentivize State transportation agencies to leverage new funding flexibilities to invest in infrastructure training programs targeted to underrepresented workers (including pre-apprenticeship programs), with an emphasis on covering supportive services and living expenses while supporting equitable training access, retention and completion.
- Support the development and expansion of registered apprenticeship and pre-apprenticeship in infrastructure and transportation occupations, with incentives and accountability for program uptake and serving underrepresented populations. DOT and DOL will seek to dedicate funding to registered apprenticeship and pre-apprenticeship in infrastructure fields and share best practices for promoting apprenticeship and pre-apprenticeship in procurement policy.
- As a part of sector-based workforce investments, promote best practices that create and expand training programs to support long-term careers in the infrastructure sector.
- Share best practices on how State and local governments and transportation agencies can partner with the workforce system to support mutual goals, including workforce boards, community colleges, sector partnerships, registered apprenticeship programs and career and technical education programs.
- Share best practices on how State and local governments and transportation agencies track and report metrics related to job creation and workforce needs.
- Provide leadership to the full Infrastructure Task Force on workforce gaps and policies to address these gaps that should be included in workforce funding across all agencies.
- Any other items identified as appropriate as mutually agreed to.

VI. EFFECTIVE DATE AND TERMINATION

This Memorandum of Understanding is effective on the date of signature and shall continue in force indefinitely. It may be terminated by either agency by giving 90-day written notice to the other agency. Its provisions will be reviewed annually and amended or supplemented in writing as agreed upon mutually.

VII. EFFECT

Nothing in this Memorandum of Understanding shall be interpreted as limiting, superseding, or otherwise affecting either Department’s normal operations or decisions in carrying out its statutory or regulatory duties, and all efforts described shall be carried out consistent with the law. This Memorandum of Understanding does not limit or restrict either agency from participating in similar activities or arrangements with other entities.

This Memorandum of Understanding is an internal governmental agreement designed to improve the efficiency of government and does not confer any rights on any other parties.

This Memorandum of Understanding does not obligate any funding of the Departments.

VIII. POINTS OF CONTACT

U.S. Department of Transportation:

- Alexander Bond, Transportation Policy Analyst
- Brendan Danaher, Senior Labor Advisor
- Michael Shapiro, Deputy Assistant Secretary for Economic Policy
- Paige Shevlin, Strategic Advisor for Infrastructure Workforce Development

U.S. Department of Labor:

- Angela Hanks, Acting Assistant Secretary, Employment and Training Administration
- Brent Parton, Senior Policy Advisor, Employment and Training Administration
- Lynn Rhinehart, Senior Advisor
- Katelyn Walker Mooney, Policy Advisor

IX. AUTHORIZING SIGNATURE AND DATES

The signatories below warrant and represent that they have the competent authority on behalf of their respective agencies to enter into the obligations set forth in this Agreement.

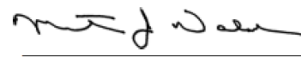
Pete Buttigieg, Secretary of Transportation

Marty Walsh, Secretary of Labor

SIGNED:



SIGNED:



DATE:

February 7, 2022

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