



## Section 130 Funding, Part II, Answers to Frequently Asked Questions

### Community of Interest Webinar for *Railroad-DOT Mitigation Strategies (R16)*

May 18, 2018



U.S. Department of Transportation  
Federal Highway Administration

AMERICAN ASSOCIATION  
OF STATE HIGHWAY AND  
TRANSPORTATION OFFICIALS

**AASHIO**

# Purpose of Today's Webinar



- **Hear answers** to some of the most common and pressing questions facing our community on Section 130 funding.
- **Hear from FHWA and AASHTO** on details that will help your agency or organization navigate Section 130.
- **Discuss and ask more questions** in a robust exchange with presenters and participants

# Agenda

- Welcome
- Kelly Morton, FHWA
- Discussion and Comments



# A Few Housekeeping Details

- **Tell us what you think.** We want to hear from all of you on the call during the discussion segment.
- **Please add your comments to the chat box provided.**

# Welcome

## Presenters

- Kelly Morton, Section 130 Program Manager, FHWA Office of Safety
- Jessica Rich, Safety Engineer, FHWA Tennessee Division

## Moderators/Participants

- Kate Kurgan, Moderator/ R16 Product Lead, AASHTO
- Pam Hutton, SHRP2 Implementation Manager, AASHTO
- Mike Loehr, R16 Subject Matter Expert
- Hal Lindsey, R16 Project Manager

Recorded presentation will be posted on the AASHTO SHRP2 website:  
[http://shrp2.transportation.org/Pages/R16\\_RailroadDOTMitigationStrategies.aspx](http://shrp2.transportation.org/Pages/R16_RailroadDOTMitigationStrategies.aspx)

# Focus Areas



**Safety:** fostering safer driving through analysis of driver, roadway, and vehicle factors in crashes, near crashes, and ordinary driving



**Reliability:** reducing congestion and creating more predictable travel times through better operations

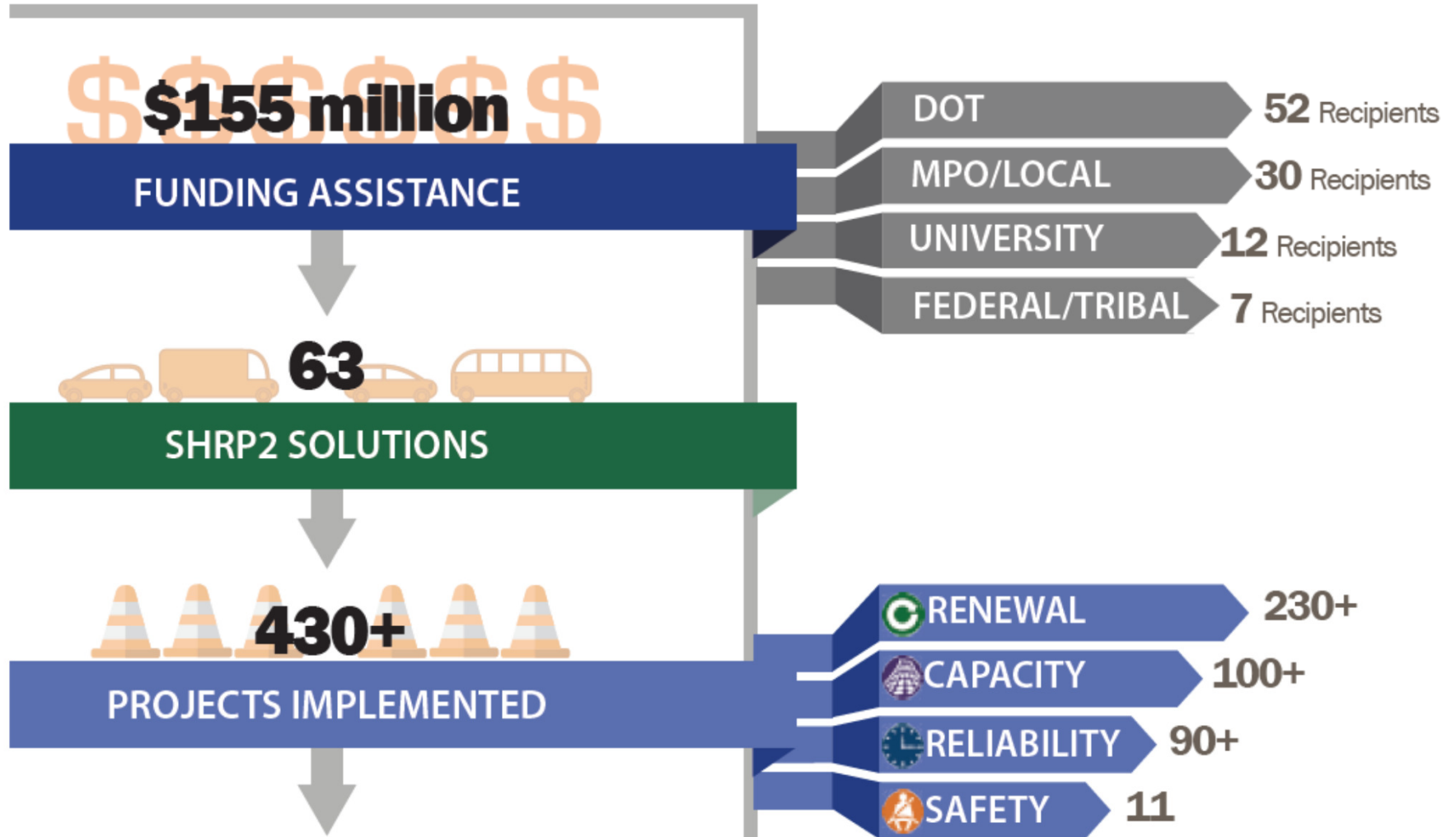


**Capacity:** planning and designing a highway system that offers minimum disruption and meets the environmental and economic needs of the community

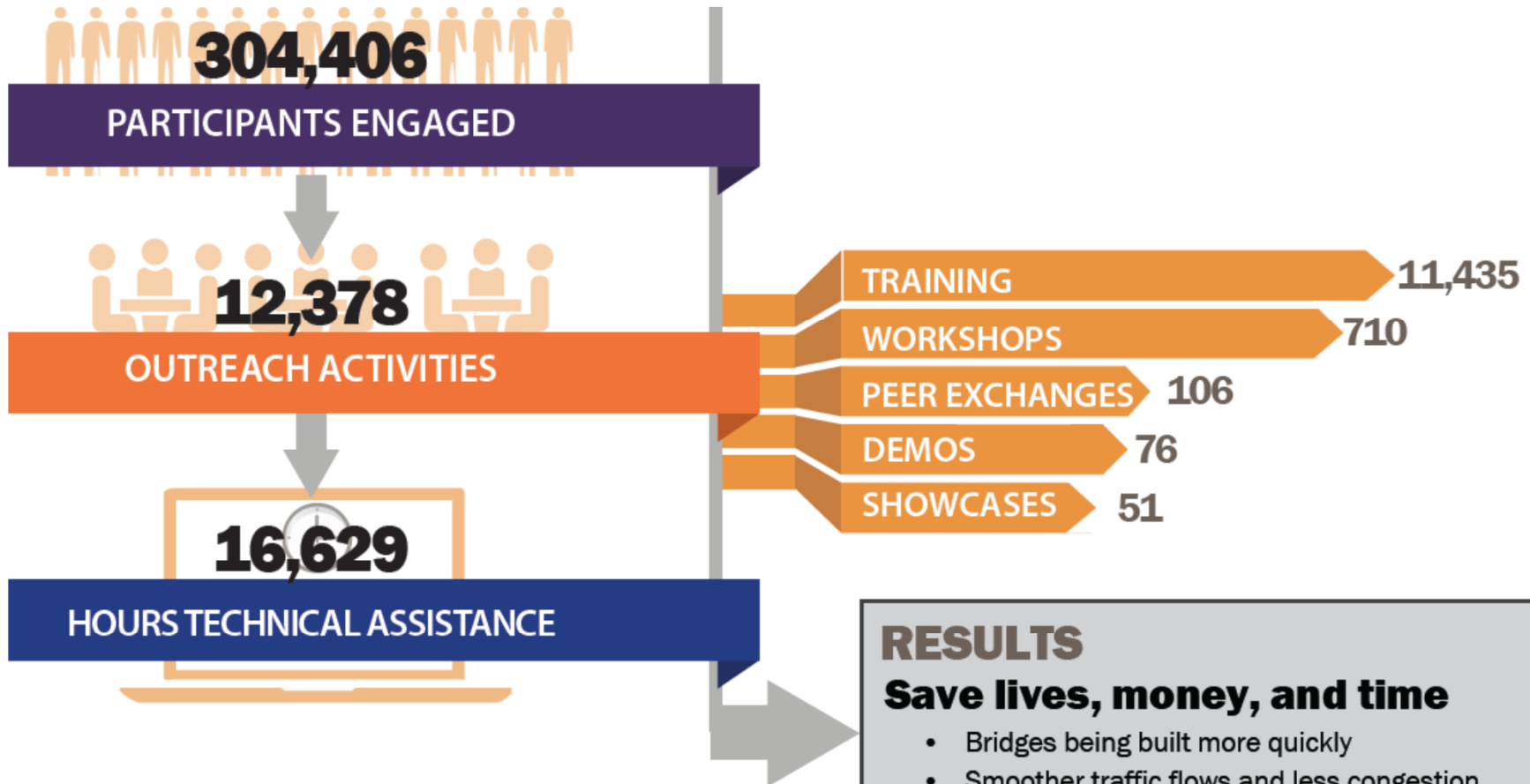


**Renewal:** rapid maintenance and repair of the deteriorating infrastructure using already-available resources, innovations, and technologies

# SHRP2 Implementation: INNOVATE – IMPLEMENT - IMPROVE



# SHRP2 Implementation: INNOVATE – IMPLEMENT - IMPROVE





# What is SHRP2 R16?

- Active Strategic Community of Interest
- Strategies to Improve Railroad-DOT Cooperation and Accelerate Project Delivery
- Innovation Library  
[http://shrp2.transportation.org/Pages/R16\\_InnovationLibrary\\_Topic.aspx](http://shrp2.transportation.org/Pages/R16_InnovationLibrary_Topic.aspx)
- AASHTO Web Page Resources:  
[http://shrp2.transportation.org/Pages/R16\\_RailroadDOTMitigationStrategies.aspx](http://shrp2.transportation.org/Pages/R16_RailroadDOTMitigationStrategies.aspx)

## Section 130 Question 1

***What parties are responsible for updating cross buck assemblies at passive crossings (with stop or yield signs) and can Section 130 funding be used for this?***



JIM BOWLING, HERALD & REVIEW [https://herald-review.com/news/local/public\\_safety/in-state-money-marked-for-pana-crossing-where-died/article\\_8c7b0b73-9cbc-5a3a-9607-000389fdd8d9.html](https://herald-review.com/news/local/public_safety/in-state-money-marked-for-pana-crossing-where-died/article_8c7b0b73-9cbc-5a3a-9607-000389fdd8d9.html)

# Section 130 Answer 1

- The responsibility for the design, placement, operation, maintenance, and uniformity of traffic control devices shall rest with the public agency or the official having jurisdiction, or, in the case of private roads open to public travel, with the private owner or private official having jurisdiction. (MUTCD Section 1A.07).
- Responsibilities vary depending on specific characteristics of the crossing, agreements in place between state, Railroad and/or Legislature.
- Section 130 funds may be used to install signs at crossing.

## Section 130 Question 2

***Can Section 130 funds be used to replace obsolete signal technology to improve reliability and reduce maintenance costs?***



## Section 130 Answer 2

- The purpose is to eliminate the hazards at railway-highway crossings.
- Is it part of a Safety Improvement Project?
- Is it required with a Safety Improvement Project?

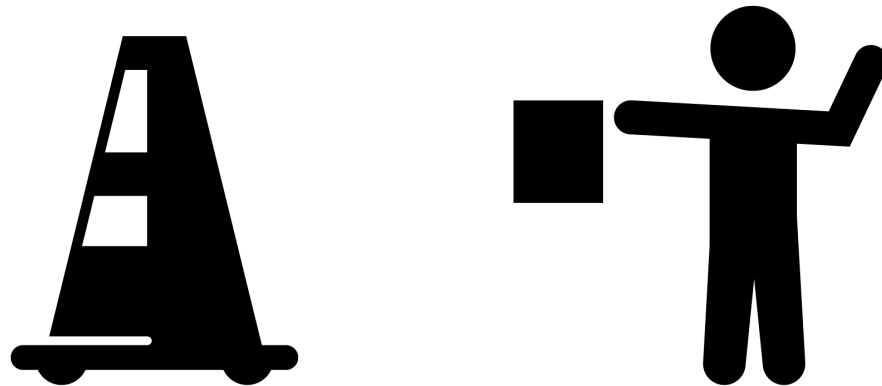
## Section 130 Question 3

***Can Section 130 funds be used only to upgrade a crossing from passive to active signals only or can they also be used to improve current active crossings where incident levels are high?***



## Section 130 Answer 3

- The purpose is to eliminate the hazards at railway-highway crossings.
- States decide what works best for them.



## Section 130 Question 4

***Please provide clarity related to requirements that work funded with Section 130 must be competitively bid or if sole source to existing railroad contractors is allowed. Discuss in terms of competitive contracts as well as how it relates to force account.***



# Section 130 Answer 4

- Design
  - The Brooks Act (40 USC 1101-1104)
    - Agency shall select, in order of preference, at least 3 firms that the agency head considers most highly qualified to provide the services required.
- Construction
  - 23 USC 112
    - Must be competitively bid
      - Master Agreements
      - On-Call Contracts

## Section 130 Question 5

***Please address why the \$7,500 financial incentive to close crossings has not kept up with inflation as this relatively small amount of compensation is not compelling to state and local governments.***

# Section 130 Answer 5



## Section 130 Question 6

***How best may we exchange contact information and engage at the regional level between the railroads and FHWA and FRA counterparts?***

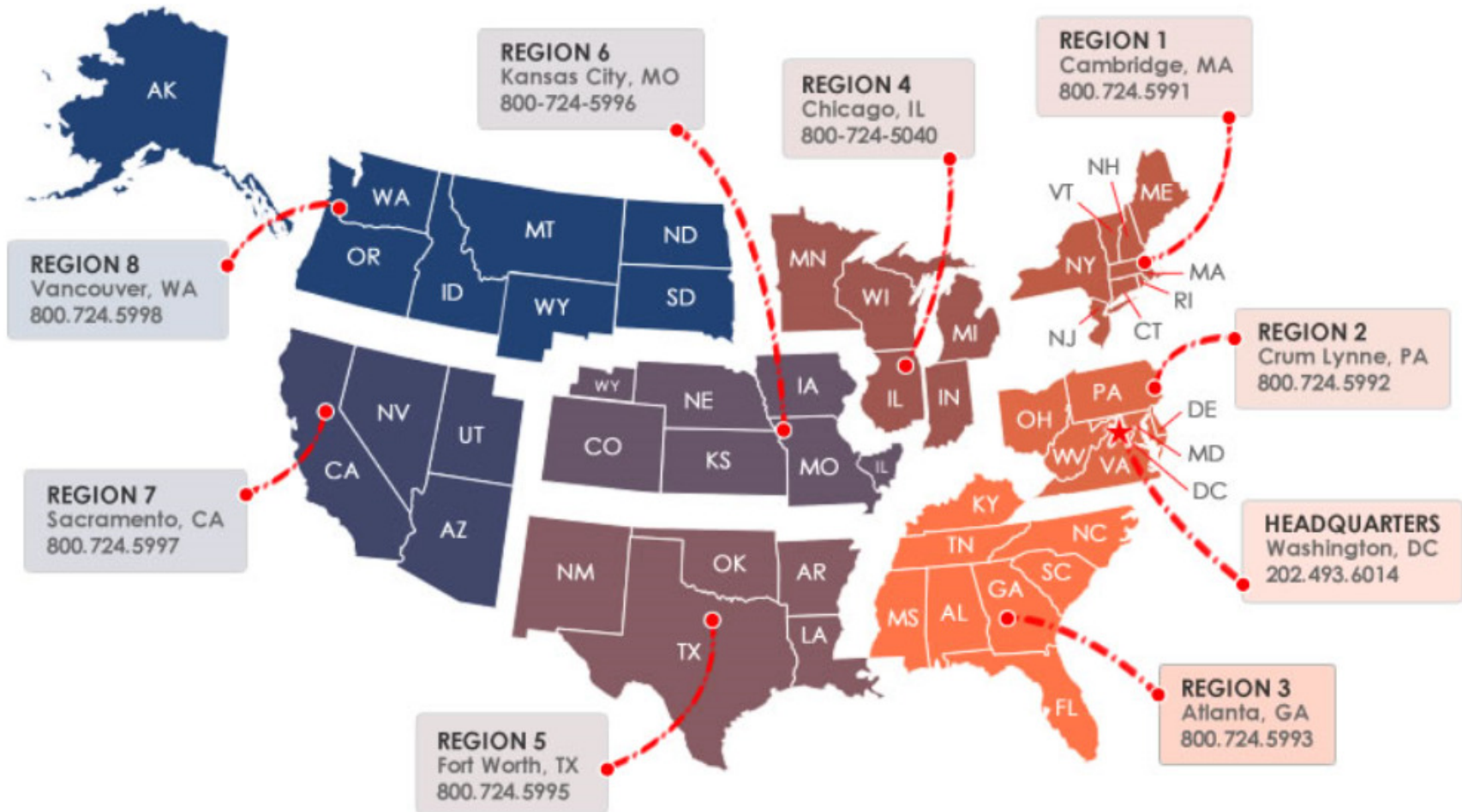


## Section 130 Answer 6

- FRA has Regional offices.  
[www.fra.dot.gov/Page/P0244](http://www.fra.dot.gov/Page/P0244)
- FHWA has a Division office in each State.  
[www.fhwa.dot.gov/about/field.cfm](http://www.fhwa.dot.gov/about/field.cfm)

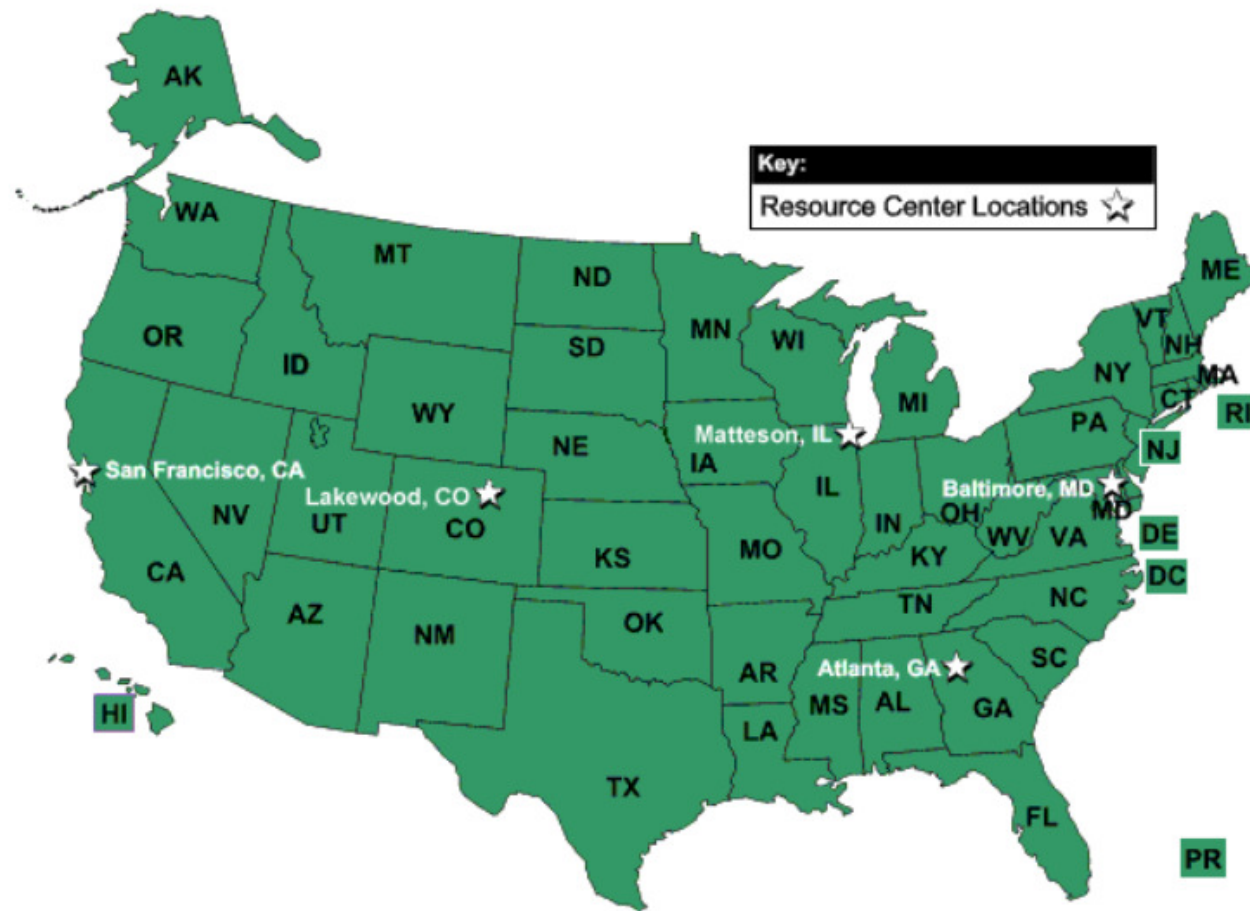
# Section 130 Answer 6

## FRA Regional Offices



# Section 130 Answer 6

## FHWA Field Division Offices



## Section 130 Question 7

***Can Section 130 funds be used to create state highway-rail grade crossing action plans?***





## Section 130 Answer 7

Section 11401(d) of the FAST Act allows for Section 130 funds to be made available “to provide States with funds to develop a State highway-rail grade crossing action plan...or to update a State action plan.”

## Section 130 Question 8

***With the DOT support of Connected and Autonomous Vehicles (CAV), will Section 130 legislation be adjusted to allow the upgrades at crossings to make them part of the vehicle-to-infrastructure (VSI) network?***

## Section 130 Answer 8

- Legislation is established by Congress
- New emerging area
- More research to be done



## Section 130 Question 9

***It was noted that several state DOTs have directed the railroads to use specific contractors to perform Section 130 projects that may or may not have been competitively bid. What is the policy on this?***

## Section 130 Answer 9

- General Federal-aid Highway Program requirements
- States may have State-specific laws or policies

## Section 130 Question 10

***If a railroad contracts out its Section 130 projects, must independent testing and certification of the crossing be performed, or can the contractor test and certify their own work?***

## Section 130 Answer 10

- General Federal-aid Highway Program requirements
- States may have State-specific laws or policies

## Section 130 Question 11

***There is concern that recent changes in the funding requirements are shifting financial burdens to local entities that cannot fund their share of the Section 130 projects. Are there any additional federal funding sources that can be used to assist local entities with their new funding responsibilities to maintain the number of crossings that can be improved in the fiscal year?***



## Section 130 Answer 11

- Match requirements for Section 130 funded projects must be from a non-federal funding source
- Other federal funding sources may be used for rail safety improvement projects with less match requirements (depending on that program's requirements) such as HSIP, STBGP, NHPP or FRA grants

## Section 130 Question 12

***In a similar vein, the elimination of the ability to pay for preliminary engineering may reduce the number of projects that will be performed. Does the DOT have a way to fund preliminary engineering so that projects continue to be performed?***

## Section 130 Answer 12

- Preliminary engineering, right-of-way acquisition and construction activities are eligible for federal-aid funding
- States may have State-specific laws or policies

## Section 130 Question 13

***Some states have used Section 130 funds to modify the railroad facilities in place of crossing upgrades to address blocked crossings by moving sidings or yards. Is there any guidance available on how these projects should be justified or configured to be eligible for Section 130 funding?***

## Section 130 Answer 13

- New eligible activity with the FAST Act
- Noteworthy practices



<https://www.infrastructurereportcard.org/tag/fast-act/>

## Section 130 Question 14

***Does the DOT have a position on differing interpretations by state level agencies with regulatory authority or legislative statutes that are different from the federal requirements in 23 CFR 636? i.e. state where PUC has regulatory power by statute over grade crossings or where state statutes define differing splits of responsibilities between the parties.***

## Section 130 Answer 14

- 23 CFR 636 addresses Design-Build Contracting
- 23 CFR 646 addresses Railroads

## Section 130 Question 15

***If an individual railroad has existing contract(s) for grade crossings and other services that were competitively bid in accordance with federal regulations, must the railroad competitively compete the Section 130 projects, or can the railroad award Section 130 projects to one of its selected contractors?***



## Section 130 Answer 15

- General Federal-aid Highway Program requirements
- States may have State-specific laws or policies

## Section 130 Question 16

***If a shortline railroad is part of a larger holding company, can contracts held by the holding company that were competitively bid in accordance with FAR regulations be used by the individual shortline railroad for awarding work for Section 130 projects?***

## Section 130 Answer 16

- Federal-aid contracting requirements

More Questions?



# For More Information

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## Additional Resources:

**GoSHRP2**

Website:

[fhwa.dot.gov/GoSHRP2](http://fhwa.dot.gov/GoSHRP2)

**AASHTO SHRP2**

Website:

<http://shrp2.transportation.org>

**R16 Product  
Pages**

[http://shrp2.transportation.org/Pages/R16\\_RailroadDOTMitigationStrategies.aspx](http://shrp2.transportation.org/Pages/R16_RailroadDOTMitigationStrategies.aspx)

**Innovation  
Library**

[http://shrp2.transportation.org/Pages/R16\\_InnovationLibrary.aspx](http://shrp2.transportation.org/Pages/R16_InnovationLibrary.aspx)

**Thank You for Joining Us!**

