117th CONGRESS
1st Session

S.

To establish a green transportation infrastructure grant program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. WARREN introduced the following bill; which was read twice and referred to the Committee on ______________________

A BILL

To establish a green transportation infrastructure grant program, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Better Utilizing Investments to Leverage Development and Generating Renewable Energy to Electrify the Nation’s Infrastructure and Jobs Act” or the “BUILD GREEN Infrastructure and Jobs Act”.


SEC. 2. GREEN TRANSPORTATION INFRASTRUCTURE GRANT PROGRAM.

(a) Definitions.—In this section:

(1) Electric Vehicle.—The term “electric vehicle” has the meaning given the term in section 523.2 of title 49, Code of Federal Regulations (or successor regulations).

(2) Frontline, Vulnerable, and Disadvantaged Community.—The term “frontline, vulnerable, and disadvantaged community” means a community—

(A) in an area described in section 301(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161(a)); and

(B) in which climate change, pollution, or environmental destruction have exacerbated systemic racial, regional, social, environmental, gender, and economic injustices by disproportionately affecting Black, Brown, and Indigenous peoples, other communities of color, migrant communities, deindustrialized communities, depopulated rural communities, the poor, low-income workers, women, the elderly, the unhoused, people with disabilities, or youth.

(3) Global Warming Potential.—The term “global warming potential” has the meaning given
the term in section 98.6 of title 40, Code of Federal
Regulations (or successor regulations).

(4) GREEN PROJECT.—The term “green project” means a project that—

(A) deeply reduces transportation greenhouse gas emissions and local air pollution; and

(B) results in a reduction in overall energy use, maximization of energy efficiency, implementation and use of energy recovery, and an offset of the remaining demand for energy with production of energy from renewable energy sources, such that the project produces as much energy or energy savings as the project uses over the course of a year.

(5) GREEN SPACE.—

(A) IN GENERAL.—The term “green space” means publicly accessible land or water that—

(i) is partly or completely covered with grass, trees, shrubs, or other vegetation; and

(ii) provides floodwater alleviation, storm water mitigation, green travel routes, water purification, cooling temperatures, pollution management, public health
benefits, enhancements to biodiversity, ecological resilience, or greenhouse gas emissions sequestration.

(B) **Inclusions.**—The term “green space” includes parks, gardens, playing fields, children’s play areas, woods, grassed areas, bodies of water, and trails.

(6) **Greenhouse Gas.**—The term “greenhouse gas” means—

(A) carbon dioxide;

(B) hydrofluorocarbons;

(C) methane;

(D) nitrous oxide;

(E) perfluorocarbons;

(F) sulfur hexafluoride;

(G) nitrogen trifluoride;

(H) chlorofluorocarbons;

(I) criteria pollutants for which there are national ambient air quality standards under section 109 of the Clean Air Act (42 U.S.C. 7409); and

(J) any other anthropogenically-emitted gas or particulate that the Administrator of the Environmental Protection Agency determines, after notice and comment—
(i) to contribute to climate change; or
(ii) to produce negative effects on
human health, biodiversity, or ecological
resilience.

(7) GREENHOUSE GAS EMISSIONS.—The term
“greenhouse gas emissions” means emissions of
greenhouse gas, expressed in terms of metric tons of
carbon dioxide equivalent.

(8) NEW RENEWABLE ENERGY.—The term
“new renewable energy” means renewable energy
from a source that is not currently producing power.

(9) PROGRAM.—The term “program” means
the green transportation infrastructure grant pro-
gram established under subsection (b).

(10) PUBLICLY AVAILABLE EVSE.—

(A) IN GENERAL.—The term “publicly
available EVSE” means Electric Vehicle Supply
Equipment and any associated parking spaces
designated by the property owner or lessee to be
available to, and accessible by, the public for
any period of time, including Electric Vehicle
Supply Equipment and associated parking
spaces located in parking garages or gated fa-
cilities if any member of the public can obtain
vehicular access to the facility for free or through payment of a fee.

(B) EXCLUSION.—The term “publicly available EVSE” does not include Electric Vehicle Supply Equipment and any associated parking spaces in a workplace if the Electric Vehicle Supply Equipment and associated parking spaces are clearly marked and operated as available exclusively to employees or contracted drivers.

(11) RENEWABLE ENERGY SOURCE.—The term “renewable energy source” means energy generated from renewable sources, including the following:

(A) Solar, including electricity.

(B) Wind.

(C) Ocean, including tidal, wave, current, and thermal.

(D) Geothermal, including electricity and heat pumps.

(E) Hydroelectric generation capacity achieved from increased efficiency or additions of new capacity—

(i) at an existing hydroelectric project; and
(ii) that was placed in service on or after January 1, 1999.

(F) Hydrogen used in fuel cells or other non-combustion technologies.

(G) Thermal energy generated by any of the sources described in subparagraphs (A) through (F).

(12) RESILIENT.—The term “resilient”, with respect to transportation infrastructure projects, means an anticipation of, preparation for, and adaptation of the project to disruptions and changing environmental and security conditions, and the achievement and maintenance by the project of the capability to withstand, respond to, and recover rapidly from disruptions while ensuring the sustainment of operations.

(13) RURAL AREA.—The term “rural area” means an area with a population of 200,000 or fewer.

(14) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

(15) URBANIZED AREA.—The term “urbanized area” means an area with a population of more than 200,000.
(b) Establishment.—The Secretary shall establish a green transportation infrastructure grant program to provide grants on a competitive basis to eligible entities for capital investments in electrified surface transportation infrastructure projects that—

(1) will have a significant local or regional impact to improve transportation and reduce greenhouse gas emissions and toxic emissions; and

(2) are—

(A) sustainable and resilient; and

(B) green projects.

(c) Eligible Entities.—An entity eligible to receive a grant under the program is—

(1) a State;

(2) a unit of local government;

(3) a transit agency;

(4) a port authority;

(5) an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)); or

(6) a group of entities described in paragraphs (1) through (5).

(d) Eligible Projects.—A project eligible to be carried out with funds from a grant provided under the program is—
(1) a highway or bridge project eligible for assistance under title 23, United States Code, that has or installs publicly available EVSE on the highway or on a highway in immediate proximity to the bridge;

(2) a public transportation project eligible for assistance under chapter 53 of title 49, United States Code, that is powered by electricity;

(3) a passenger or freight rail project that is powered solely by an external source of electricity or solar power;

(4) a port infrastructure investment, including inland port infrastructure and land ports of entry, that installs publicly available EVSE or converts fossil fuel-powered equipment to electrified equipment; and

(5) any other projects that—

(A) the Secretary determines to be appropriate; and

(B) clearly demonstrate a contribution to the reduction of greenhouse gas emissions and toxic emissions.

(e) APPLICATION.—

(1) IN GENERAL.—To be eligible to receive a grant under the program, an eligible entity shall
submit to the Secretary an application at such time,
in such manner, and containing such information as
the Secretary may require.

(2) DEADLINES.—The Secretary shall—

(A) publish a notice of funding opportunity
for the program by not later than 10 days after
October 1 of each fiscal year;

(B) require applications for grants under
the program to be submitted to the Secretary
by not later than 90 days after the date on
which the notice of funding opportunity is pub-
lished; and

(C) select eligible projects to receive grants
under the program, in accordance with sub-
section (f), by not later than 270 days after Oc-
tober 1 of each fiscal year.

(f) SELECTION.—

(1) IN GENERAL.—The Secretary shall select el-
gible projects to receive a grant under the program
based on sustainability criteria, including—

(A) the extent to which the project pro-
motes the electrification of all public transpor-
tation, including electric city buses, electric
commuter rail, electric vehicle fleets, and elec-
tric school buses;
(B) criteria in the Infrastructure Vol-
untary Evaluation Sustainability Tool (IN-
VEST) of the Federal Highway Administration;

(C) criteria developed by the Secretary to
promote electric vehicle charging infrastructure;

(D) criteria developed by the Secretary to
reduce overall vehicle miles traveled in single
occupancy, internal combustion engine vehicles;

(E) criteria developed by the Secretary, in
consultation with the Administrator of the En-
vironmental Protection Agency, that consider
the extent to which the eligible project contrib-
utes to—

(i) climate resilience;

(ii) climate mitigation;

(iii) air pollution and emissions of
hazardous air pollutants (as defined in sec-
tion 112(a) of the Clean Air Act (42
U.S.C. 7412(a))); and

(iv) greenhouse gas emissions;

(F) criteria developed by the Secretary, in
consultation with the Secretary of Energy, that
consider the extent to which the eligible project
will achieve energy savings and reduced energy
usage compared to other eligible projects; and
(G) criteria developed by the Secretary, in consultation with the Secretary of Energy, that consider the extent to which the eligible project will improve pedestrian and nonmotorized vehicle access and safety compared to other eligible projects.

(2) EXCLUSION.—In selecting eligible projects to receive a grant under the program, the Secretary shall not use the Federal share percentage or the ability of an applicant to generate non-Federal revenue as a selection criterion.

(3) PRIORITY.—In selecting eligible projects to receive a grant under the program, the Secretary shall give priority to an eligible project that—

(A) is located in—

(i) a frontline, vulnerable, and disadvantaged community;

(ii) an area identified as having disproportionately high adverse human health and environmental impacts on minority populations and low-income populations;

(iii) a community of color;

(iv) a low-income community;

(v) a deindustrialized community; or
(vi) a community facing environmental injustice.

B) requires a contribution of Federal funds in order to complete an overall financing package; or

C) includes—

(i) the addition of—

(I) a new green space; or

(II) new State or local park system units and recreation areas administered for outdoor recreation purposes; or

(ii) an improvement to improve access to an existing green space, State or local park system unit, or recreation area administered for outdoor recreation purposes, including pedestrian and bicycle access.

(4) REPORT.—Not less frequently than once each year, the Secretary shall —

(A) submit a report that contains the criteria for eligible projects developed under paragraph (1) to—

(i) the Committee on Commerce, Science, and Transportation of the Senate;
(ii) the Committee on Environment and Public Works of the Senate;

(iii) the Committee on Transportation and Infrastructure of the House of Representatives; and

(iv) the Committee on Energy and Commerce of the House of Representatives; and

(B) make the report under subparagraph (A) available to the public.

(g) GRANT REQUIREMENTS.—

(1) ENVIRONMENTAL STANDARD.—As a condition of receiving a grant under the program, any building or structure that is part of an eligible project, including existing buildings, shall comply with, or, in the case of an existing building, be renovated to comply with, environmental standards determined by the Secretary, that are at least as stringent as the Leadership in Energy and Environmental Design (LEED) standards of the United States Green Building Council.

(2) USE OF RENEWABLE ENERGY.—

(A) IN GENERAL.—As a condition of receiving a grant under the program, any eligible project that, after completion of the project,
uses electrical energy shall use electrical energy in a manner that does not increase usage of nonrenewable energy sources, in accordance with subparagraph (B).

(B) METHODS.—An eligible entity may comply with subparagraph (A) by—

(i) purchasing new renewable energy or renewable energy credits for the eligible project;

(ii) generating new renewable energy for the eligible project;

(iii) converting to use of renewable energy for another project of the eligible entity in an equivalent quantity of nonrenewable energy used for the eligible project; or

(iv) any combination of the methods described in clauses (i) through (iii).

(C) COMPLIANCE.—

(i) IN GENERAL.—If the Secretary determines that an eligible project is not in compliance with subparagraph (A), the Secretary shall promptly notify the eligible entity of the noncompliance.

(ii) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—If an eligible entity
that receives a notification of noncompliance under clause (i) is not in compliance with subparagraph (A) beginning on the date that is 180 days after the date of the notification under clause (i), the Secretary shall withhold from the State in which the eligible project is located 10 percent of the amount required to be apportioned to the State under section 104(b) of title 23, United States Code, from that State until the eligible project is in compliance with subparagraph (A).

(h) Distribution of Grants.—

(1) In general.—For each fiscal year, in carrying out the program, the Secretary shall ensure that grants are provided—

(A) on an equitable geographical basis;

(B) in a manner that achieves an appropriate balance in addressing the needs of urbanized areas and rural areas;

(C) in a manner that ensures investment in a variety of electric vehicles; and

(D) in a manner that prioritizes eligible projects in areas described in section 301(a) of
the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161(a)).

(2) STATE AMOUNTS.—

(A) MINIMUM AMOUNT.—For each fiscal year, the total amount awarded to eligible projects in each State shall be not less than the lesser of—

(i) 0.8 percent of the amounts made available to carry out the program for that fiscal year; and

(ii) the total amount requested for eligible projects in that State for that fiscal year for which the Secretary has determined meet the selection criteria under the program.

(B) MAXIMUM AMOUNT.—For each fiscal year, the total amount provided under the program for eligible projects in a single State shall not exceed an amount equal to 8 percent of the amounts made available to carry out the program for that fiscal year.

(3) RURAL AREAS, URBANIZED AREAS, AND FRONTLINE, VULNERABLE, AND DISADVANTAGED COMMUNITIES.—

(A) RURAL AREAS.—
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(i) IN GENERAL.—Of the amounts made available to carry out the program for each fiscal year, not less than 35 percent and not more than 40 percent shall be used for eligible projects located in rural areas.

(ii) GRANT AMOUNT.—The amount of a grant provided under the program for a project in a rural area shall be not less than $1,000,000.

(iii) FEDERAL SHARE.—The Federal share of the cost of an eligible project in a rural area carried out with a grant under the program may exceed 85 percent, at the discretion of the Secretary.

(B) URBANIZED AREAS.—

(i) IN GENERAL.—Of the amounts made available to carry out the program for each fiscal year, not less than 60 percent and not more than 65 percent shall be used for eligible projects located in urbanized areas.

(ii) METROPOLITAN PLANNING AREA.—Amounts made available under clause (i) may be used for eligible projects
in the metropolitan planning area established under section 134 of title 23, United States Code, that encompasses the urbanized area.

(C) FRONTLINE, VULNERABLE, AND DISADVANTAGED COMMUNITIES.—

(i) IN GENERAL.—Of the total amounts made available to carry out the program for each fiscal year under subparagraphs (A) and (B), not less than 40 percent shall be used for eligible projects located in frontline, vulnerable, and disadvantaged communities.

(ii) GRANT AMOUNT.—The amount of a grant provided under the program for a project in a frontline, vulnerable, and disadvantaged community shall be not less than $1,000,000.

(iii) FEDERAL SHARE.—The Federal share of the cost of an eligible project in a frontline, vulnerable, and disadvantaged community carried out with a grant under the program may exceed 85 percent, at the discretion of the Secretary.

(i) GRANT AMOUNT.—
(1) IN GENERAL.—Except as provided in paragraph (2), a grant under the program shall be in an amount that is not less than $2,000,000.

(2) PLANNING GRANTS.—A grant under the program for the planning, preparation, or design of an eligible project shall not be subject to a minimum grant amount.

(j) FEDERAL SHARE.—Except as otherwise provided in this section, the Federal share of the cost of a project carried out with a grant under the program shall be, at the discretion of the eligible entity—

(1) not more than 85 percent, for the purpose of planning, design, and construction of the project; and

(2) not more than 50 percent of the operation and maintenance costs of the project for the first 10 years of the project.

(k) TIFIA; RRIF.—For each fiscal year, the Secretary may use an amount equal to not more than 20 percent of the amounts made available to carry out the program for that fiscal year to pay the subsidy and administrative costs of projects eligible for Federal credit assistance under chapter 6 of title 23, United States Code, or title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.) if the Secretary
finds that such use of those amounts would advance the purposes of the program.

(l) **Buy America.**—No funds may be used for an eligible project under the program unless—

(1) in the case of an eligible project described in subsection (d)(1), the project complies with section 313 of title 23, United States Code;

(2) in the case of an eligible project described in subsection (d)(2), the project complies with section 5323(j) of title 49, United States Code;

(3) in the case of an eligible project described in subsection (d)(3), the project complies with section 22905(a) of title 49, United States Code;

(4) in the case of an eligible project described in subsection (d)(4), the project complies with section 54101(d)(2) of title 46, United States Code; and

(5) in the case of an eligible project described in subsection (d)(5), the project complies with appropriate domestic content requirements as determined by the Secretary.

(m) **Labor Provisions.**—

(1) **Employee Wages and Protections.**—

Each contractor and subcontractor for an eligible
project carried out under the program shall comply with the following:

(A) **Minimum Wage.**—

(i) **In General.**—All employees employed in the performance of the eligible project shall be paid at a rate of not less than—

(I) $15.00 an hour, beginning on the date of enactment of this Act; and

(II) beginning on the date that is 1 year after such date of enactment, and annually thereafter, the amount in effect under this subparagraph for the preceding year, increased by the annual percentage increase, if any, in the median hourly wage of all employees as determined by the Bureau of Labor Statistics and rounded up to the nearest multiple of $0.05.

(ii) **Calculation.**—In calculating the annual percentage increase in the median hourly wage of all employees for purposes of clause (i)(II), the Secretary of Labor, through the Bureau of Labor Statistics, shall—
(I) compile data on the hourly wages of all employees to determine such a median hourly wage; and

(II) compare such median hourly wage for the most recent year for which data are available with the median hourly wage determined for the preceding year.

(iii) **Prevailing Wages for Laborers and Mechanics.**—

(I) **In General.**—All laborers and mechanics employed by contractors or subcontractors in the performance of construction, alteration, or repair work carried out, in whole or in part, with assistance made available under the program shall be paid wages at rates not less than the greater of—

(aa) the rates prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31
of title 40, United States Code; or

(bb) the rate required under clause (i).

(II) AUTHORITIES.—With respect to the labor standards specified in subclause (I)(aa), the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

(B) NEUTRALITY TOWARD ORGANIZED LABOR.—The contractor or subcontractor shall have—

(i) an explicit policy of neutrality with regard to—

(I) labor organizing for the employees of the contractor or subcontractor employed in the performance of the eligible project; and

(II) such employees’ choice to form and join labor organizations; and

(ii) policies that require—
(I) the posting and maintenance of notices in the workplace to such employees of their rights under the National Labor Relations Act (29 U.S.C. 151 et seq.); and

(II) that such employees are, at the beginning of their employment in the performance of the eligible project, provided notice and information regarding the employees’ rights under such Act.

(C) PAID FAMILY AND MEDICAL LEAVE.—
The contractor or subcontractor shall have an explicit policy providing all employees employed in the performance of the eligible project not less than 12 workweeks of paid leave in a 12-month period for any purpose described in section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1)), in accordance with regulations promulgated by the Secretary of Labor.

(D) FAIR SCHEDULING.—

(i) IN GENERAL.—The contractor or subcontractor shall have an explicit policy for fair scheduling for employees employed
in the performance of the eligible project, which shall include—

(I) an opportunity for the employee to request—

(aa) an adjustment in the number of hours, work location, or times of the employee’s work schedule;

(bb) a change in the amount of notification provided to the employee regarding the work schedule; or

(cc) the minimizing of fluctuations in the number of hours the employee is scheduled to work on a daily, weekly, or monthly basis; and

(II) a timely, good faith interactive process through which the employer and employee discuss the employee’s request under subclause (I) and the employer grants the request or suggests any alternatives that might meet the employee’s needs.
(ii) Exception.—Clause (i) shall not apply to any employee covered by a valid collective bargaining agreement if—

(I) the terms of the collective bargaining agreement include terms that govern work scheduling practices; and

(II) the provisions of this Act are expressly waived in such collective bargaining agreement.

(E) Preference for Local Hiring.—The contractor or subcontractor shall have explicit policies that provide a preference for local hiring, consistent with applicable Federal law and subject to rules issued by the Secretary of Labor.

(F) Contractor Requirement Regarding Subcontractors.—The contractor or subcontractor shall require that each subcontractor of the contractor for an eligible project carried out under the program comply with the requirements of this paragraph with respect to all employees of the subcontractor employed in the performance of the project.
(2) Disclosure.—A contractor desiring a contract under an eligible project carried out under the program shall disclose to the Secretary in the contract application any administrative merits determination, arbitral award or decision, or civil judgment against the contractor during the previous 5 years for any violation of—

(A) the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.);

(B) the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.);

(C) the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.);

(D) the National Labor Relations Act (29 U.S.C. 151 et seq.);

(E) subchapter IV of chapter 31 of title 40, United States Code (commonly known as the “Davis-Bacon Act”);

(F) chapter 67 of title 41, United States Code (commonly known as the “Service Contract Act”);

(G) Executive Order 11246 (42 U.S.C. 2000e note; relating to equal employment opportunity);
(H) section 503 of the Rehabilitation Act of 1973 (29 U.S.C. 793);

(I) chapter 42 or 43 of title 38, United States Code;

(J) the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.);

(K) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.);

(L) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(M) the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.);

(N) Executive Order 13658 (79 Fed. Reg. 9851; relating to establishing a minimum wage for contractors); or

(O) any State law equivalent of a law described in subparagraphs (A) through (N), in accordance with guidance issued by the Secretary of Labor.

(3) LABOR AGREEMENTS FOR CONSTRUCTION PROJECTS.—

(A) IN GENERAL.—A contractor for an eligible project carried out under the program that is a construction project shall be a party to a covered project labor agreement.
(B) DEFINITIONS.—In this paragraph:

(i) COVERED PROJECT LABOR AGREEMENT.—The term “covered project labor agreement” means a project labor agreement that—

(I) binds all contractors and subcontractors on the construction project through the inclusion of appropriate specifications in all relevant solicitation provisions and contract documents;

(II) allows all contractors and subcontractors to compete for contracts and subcontracts without regard to whether they are otherwise a party to a collective bargaining agreement;

(III) contains guarantees against strikes, lockouts, and other similar job disruptions;

(IV) sets forth effective, prompt, and mutually binding procedures for resolving labor disputes arising during the covered project labor agreement; and
(V) provides other mechanisms for labor-management cooperation on matters of mutual interest and concern, including productivity, quality of work, safety, and health.

(ii) PROJECT LABOR AGREEMENT.—

The term “project labor agreement” means a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is described in section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)).

(n) FUNDING.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out the program $50,000,000,000 for each of fiscal years 2022 through 2031, of which not less than $15,000,000,000 shall be for grants for the purchase of electric vehicles and electric vehicle supply equipment.

(2) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until January 1, 2042.
SEC. 3. FEDERAL FUNDING EXCHANGE PROGRAMS.

Section 106(g) of title 23, United States Code, is amended by adding at the end the following:

“(6) FEDERAL FUNDING EXCHANGE PROGRAMS.—A State may implement a program under which a subrecipient has the option to exchange Federal funds allocated to the subrecipient in accordance with the requirements of this title for State or local funds if the State certifies to the Secretary that—

“(A) the State has prevailing wage and domestic content requirements that are comparable to the requirements under sections 113 and 313, respectively; and

“(B) the requirements described in subparagraph (A) shall apply to projects carried out using the State or local funds if the projects would have been subject to the requirements of sections 113 and 313 if the projects were carried out using Federal funds.”.