

items undertaken by the applicant will be eligible for inclusion in the project(s).

(2) All FTA statutory, procedural, and contractual requirements must be met.

(3) No action will be taken by the grantee that prejudices the legal and administrative findings that the Federal Transit Administrator must make in order to approve a project.

(4) Local funds expended by the grantee pursuant to and after the date of the pre-award authority will be eligible for credit toward local match or reimbursement if FTA later makes a grant for the project(s) or project amendment(s).

(5) The Federal amount of any future FTA assistance awarded to the grantee for the project will be determined on the basis of the overall scope of activities and the prevailing statutory provisions with respect to the Federal/local match ratio at the time the funds are obligated.

(6) For funds to which the pre-award authority applies, the authority expires with the lapsing of the fiscal year funds.

(7) The Financial Status Report, in TEAM-Web, must indicate the use of pre-award authority.

C. Environmental, Planning, and Other Federal Requirements

FTA emphasizes that all of the Federal grant requirements must be met for the project to remain eligible for Federal funding. Compliance with the National Environmental Policy Act (NEPA) and other environmental laws or executive orders (e.g., protection of parklands, wetlands, and historic properties) must be completed before State or local funds are spent on implementing activities such as final design, construction, and acquisition for a project that is expected to be subsequently funded with FTA funds. Depending on which class the project is included under in FTA environmental regulations, 23 CFR part 771, the grantee may not advance the project beyond planning and preliminary engineering before FTA has issued either a categorical exclusion, refer to 23 CFR part 771.117(d), a finding of no significant impact, or a record of decision. The conformity requirements of the Clean Air Act, 40 CFR part 93, also must be fully met before the project may be advanced into implementation under pre-award authority.

Similarly, the requirement that a project be included in a locally adopted metropolitan transportation improvement program and federally approved statewide transportation improvement program must be followed before the project may be advanced with non-Federal funds under pre-award authority. For planning projects, the

project must be included in a locally approved Planning Work Program that has been coordinated with the State. In addition, Federal procurement procedures, as well as the whole range of Federal requirements, must be followed for projects in which Federal funding will be sought in the future. Failure to follow any such requirements could make the project ineligible for Federal funding. In short, this increased administrative flexibility requires a grantee to make certain that no Federal requirements are circumvented through the use of pre-award authority. If a grantee has questions or concerns regarding the environmental requirements, or any other Federal requirements that must be met before incurring costs, it should contact the appropriate regional office.

Before an applicant may incur costs for Bus and Bus-Related Capital projects not listed in this notice or previous notices, it must first obtain a written LONP from FTA. To obtain an LONP, a grantee must submit a written request accompanied by adequate information and justification to the appropriate FTA regional office, as described in section XVII below.

D. Pre-Award Authority for New Starts Projects

1. Preliminary Engineering and Final Design

New Starts projects are required to follow a federally defined project development process. This process includes, among other things, FTA approval of entry of a project into preliminary engineering and approval to enter final design. The grantee request for entry into preliminary engineering and the request for entry into final design document the project's justification and financial criteria, which FTA evaluates as part of its approval process. With FTA approval to enter preliminary engineering, and subsequent approval to enter final design, FTA will automatically extend pre-award authority to that phase of project development.

2. Real Property Acquisition Activities

FTA will extend automatic pre-award authority for the acquisition of real property and real property rights for a New Starts project upon completion of the NEPA review of that project. NEPA review is completed when FTA signs an environmental Record of Decision (ROD) or Finding of No Significant Impact (FONSI), or makes a Categorical Exclusion (CE) determination. With the limitations and caveats described below, real estate acquisition for a New Starts

project may now commence upon completion of the NEPA review process.

Most major FTA-assisted projects require the acquisition of residential and/or business properties and the relocation of the occupants. Often real property rights, like railroad track usage rights, are needed. With limited exceptions set forth in FTA's NEPA guidance, the purchase of real property can prejudice the consideration of less damaging alternatives and may not take place until the NEPA process has been completed by FTA's signing of an environmental ROD or FONSI or making a CE determination.

For FTA-assisted projects, any acquisition of real property must be conducted in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) and its implementing regulations, 49 CFR part 24. Compliance with the URA regulations requires substantial lead-time. Properties must be appraised, persons who will be displaced must be educated about their relocation rights, proper housing must be found for displaced residents, and businesses must be relocated in accordance with the URA. In some cases, the remediation of contaminated soils or groundwater, or the removal of underground storage tanks must be dealt with during the acquisition process. Potentially responsible parties of the contamination must be identified and their financial liability negotiated or litigated. Acquisition of railroad right-of-way or usage rights is frequently a negotiated transaction that is fundamental to the transit project and therefore should be negotiated as early as possible after the completion of the NEPA process. Delays in the closing on an acquisition can lead to inconvenience or hardship for residents and businesses that are being displaced. Delays can also lead to increases in property values or in the current owners' financial expectations that prolong negotiated settlements.

To facilitate the acquisition process for New Starts projects, FTA will extend automatic pre-award authority for the acquisition of real property and real property rights with the signing of the environmental ROD or FONSI or the CE determination. This pre-award authority is strictly limited to costs incurred to acquire real property and real property rights and to provide relocation assistance in accordance with the URA regulation. It is limited to the acquisition of real property and real property rights that are explicitly identified in the final EIS, EA or CE determination, as needed for the selected alternative that is the subject of