

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.



U.S. Department  
of Transportation

**Federal Transit  
Administration**

Administrator

1200 New Jersey Avenue, SE  
Washington, DC 20590

Dear Colleague:

The purpose of this letter is to remind project sponsors of FTA's policies on the acquisition of real property where Federal funds will be, or are anticipated to be, used for the purchase or development of that property. In most cases, acquisition of real property cannot occur until after environmental review under the National Environmental Policy Act (NEPA) has been completed. There are exceptions available, however, if the acquisition qualifies: (1) under FTA's corridor preservation statute (49 U.S.C. § 5323(q)), (2) as a hardship or protective acquisition categorical exclusion (CE) ([23 CFR § 771.118\(d\)\(3\)](#)), or (3) for the limited, stand-alone property acquisition CE where there is no substantial change in the functional use of the property being acquired (as well as the CE's other conditions) ([23 CFR § 771.118\(c\)\(6\)](#)). **Unless one of those three exceptions applies, acquisition of property before completion of the environmental review required by NEPA may foreclose the ability of the acquirer to use Federal funds for any future project on the property.**

Because of the potential consequences of improper early acquisition of real property, FTA strongly encourages project sponsors to contact their FTA Regional Office before acquiring real property, even if using only local funds. By engaging FTA early, FTA can provide technical assistance regarding the applicability of Federal requirements, including pre-award authority, and potential options available to meet those requirements and to preserve eligibility for future Federal assistance.

FTA also encourages project sponsors to review FTA's Real Property Acquisition and NEPA Frequently Asked Questions (FAQs) on FTA's [Environmental Resources Information](#) webpage under "Acquisition and Relocations." The FAQs clarify how real estate acquisition relates to the environmental review process, including timing for allowed and prohibited activities prior to NEPA completion. The FAQs do not establish new policy. Rather, the answers are based on existing statutes, regulations, and guidance, including [Corridor Preservation](#) guidance (49 U.S.C. § 5323(q)), FTA's environmental regulations at [23 CFR part 771](#), the regulations implementing the Uniform Act ([49 CFR part 24](#)), and [FTA Circular 5010.1E](#).

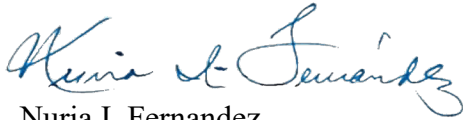
Another important consideration for any FTA-funded property acquisition or acquisition for an FTA-funded project is compliance with [Executive Order 12898](#), "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," through which a project sponsor must consider the effects of any acquisition on environmental justice populations (including homeless individuals). Lastly, in addition to NEPA, project sponsors also must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. § 4601 *et seq.*).

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FTA is committed to working with project sponsors to expedite the environmental review process—and to shorten the project delivery timeframes—while ensuring compliance with environmental requirements.

Should you have any questions or need additional information regarding this matter, please contact Megan Blum, Director of FTA's Office of Environmental Program, at 202-366-0463 or [megan.blum@dot.gov](mailto:megan.blum@dot.gov).

Sincerely,

A handwritten signature in blue ink that reads "Nuria I. Fernandez". The signature is written in a cursive style with a large, stylized initial "N".

Nuria I. Fernandez