

FTA Bus Procurement Best Practices Updates

FTA Webinar

2/29/2024



FEDERAL TRANSIT ADMINISTRATION



Presenters

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Agenda



1. The Current U.S. Bus Market
2. Potential Transit Agency Actions
3. FTA Actions
4. Guidance for Common Questions

Bus Procurement: Opportunities & Challenges

- **More Bipartisan Infrastructure Law Funding (FY 2022-2026)**
 - Buses & Bus Facilities Program (formula & competitive) = **\$5.1 billion**
 - Low-No Program = **\$5.6 billion**
- **Cleaner Buses**
 - DOT 2030 Goal: Zero-emission buses (ZEBs) = 7,500 (+ 450%)
- **Post-pandemic headwinds**
 - Transit Vehicle Manufacturers (TVMs) have faced challenges that were caused or amplified by the pandemic, inflating bus costs, extending production timelines, and impacting their financial health



Bus Procurement: Identifying Solutions

FTA and the transit industry are coordinating to get the most of BIL investments, including actions to:

- Reduce bus costs
- Shorten production timelines
- Maintain and grow domestic bus manufacturing capacity



Challenges Facing Bus Manufacturers

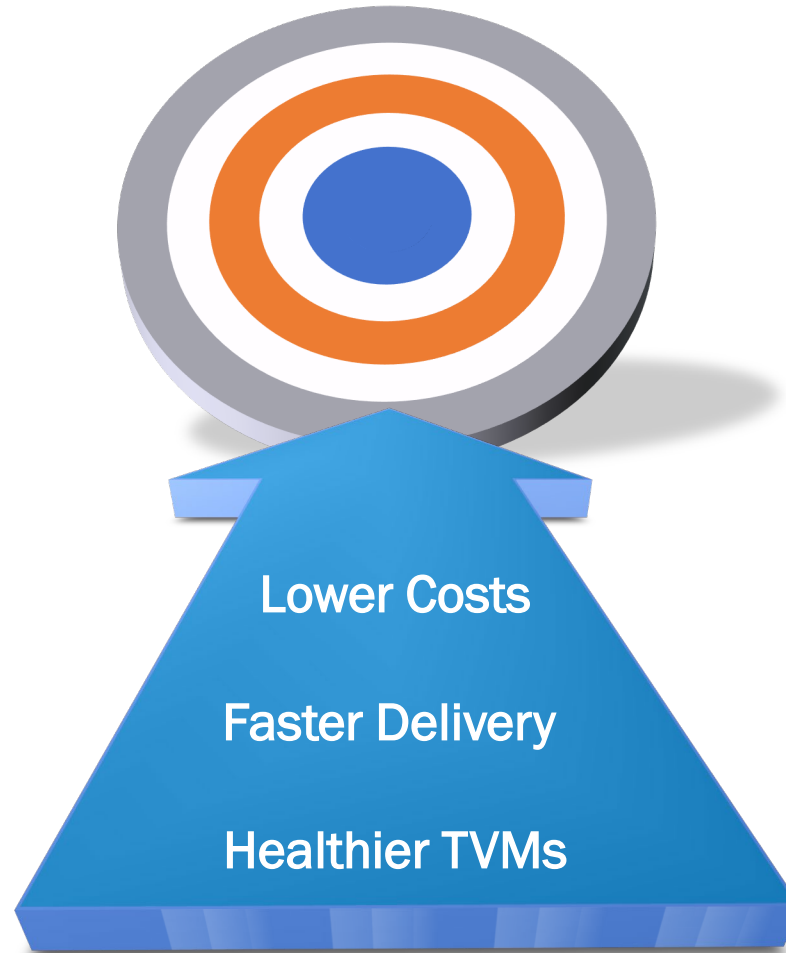
What's inflating bus costs and delivery timelines and adding financial burdens?

- **Extended timelines between awarding a contract and bus manufacturers receiving payment**
 - Typical bus contracts are not paid until vehicle delivery
 - Manufacturers must finance costs for 2-3 years
- **Transit agencies desire high levels of vehicle customization**
 - Few agencies order a standard model bus
 - Increased costs and production timelines
 - Puts supply chain at risk
- **Local/agency imposed bonding requirements**
 - FTA does not require bonds or other security unless advance or progress payments are made using Federal funds
 - Requiring manufacturers to purchase bonds adds costs and can tie up working capital
 - Limited financial capacity to secure simultaneous bonds can force a manufacturer to forgo an RFP
- **Difficulty understanding federal procurement policies**

Potential Transit Agency Actions

FTA identified options to help lower bus costs, accelerate delivery, and promote TVM competition.

- State Schedules (w/o customization)
- Low-No Partnership
- Joint Procurements (w/shared spec)
- Performance Specifications
- APTA “White Book”
- “Brand Name or Equivalent” Contract Language



- Base Model Bus
- Avoid Customization
- Advance/Progress Payments
- Minimize Bonding
- Employ Industry Pricing Indices

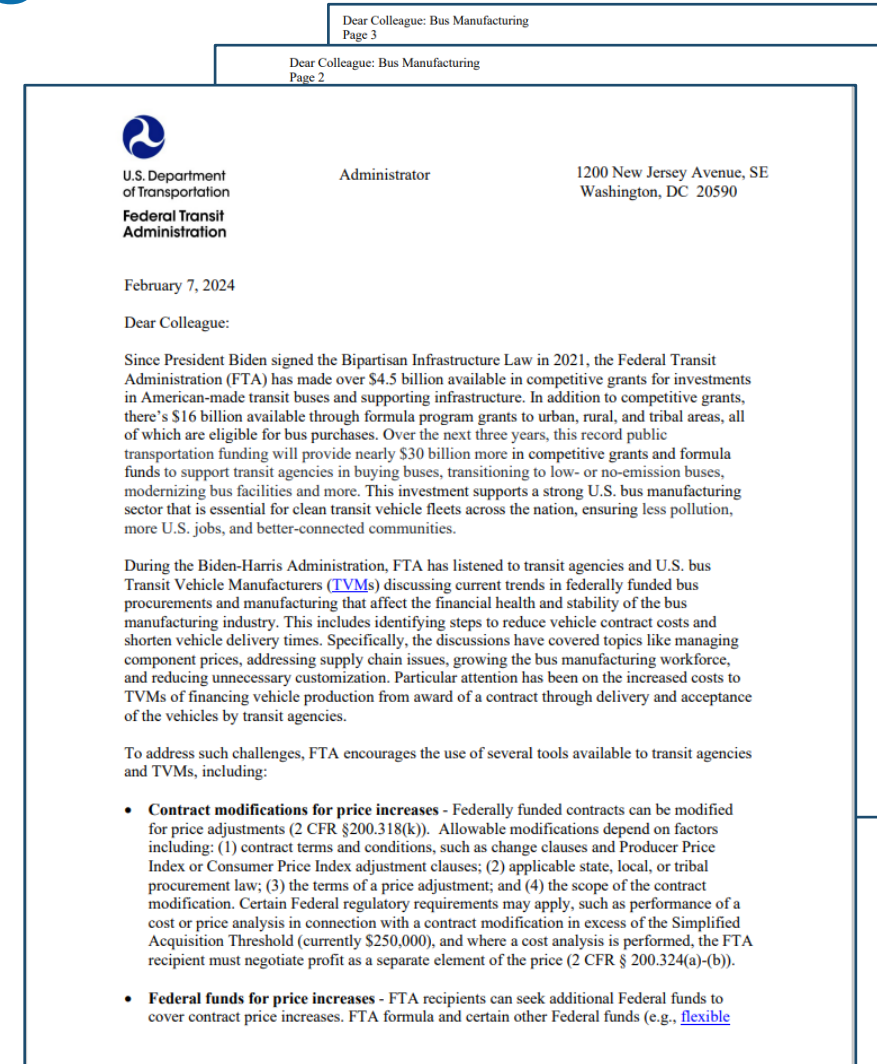
FTA Actions

To strengthen the American bus manufacturing industry, lower costs, and accelerate transit vehicle delivery:

- Feb 7th Dear Colleague letter
- FY 2024 Bus Grants NOFO – new priority considerations
- Additional [procurement trainings](#) at the FTA-funded National Transit Institute (NTI)
- New FTA bus procurement resources website and FAQs
- New FTA Acquisition Oversight Division focused on industry support
- Communicating best practices at conferences/events/webinars/agency engagements

Bus Procurement Dear Colleague

- Consolidates guidance and tools available to transit agencies
 - Contract modifications for price increases
 - Federal funding for price increases
 - Contract clauses in new procurements
 - Advance and progress payments
 - Securing the federal interest
- Highlights additional [FTA actions and available technical assistance resources](#)



FY2024 Bus/Low-No NOFO

Advances FTA's priorities of strengthening U.S. bus manufacturing, containing vehicle costs, and accelerating delivery

- Application window: Feb. 8 to Apr. 25, 2024

New Priority Considerations

- **Progress and Advance Payments** – applicants that commit to contract terms with advance or progress payments
- **Standard Vehicles** – applicants commit to joint procurement, or partner with a TVM and commit to procuring standard model buses without customization (letter from TVM required)

\$1.5 billion available to fund new, American-made transit buses

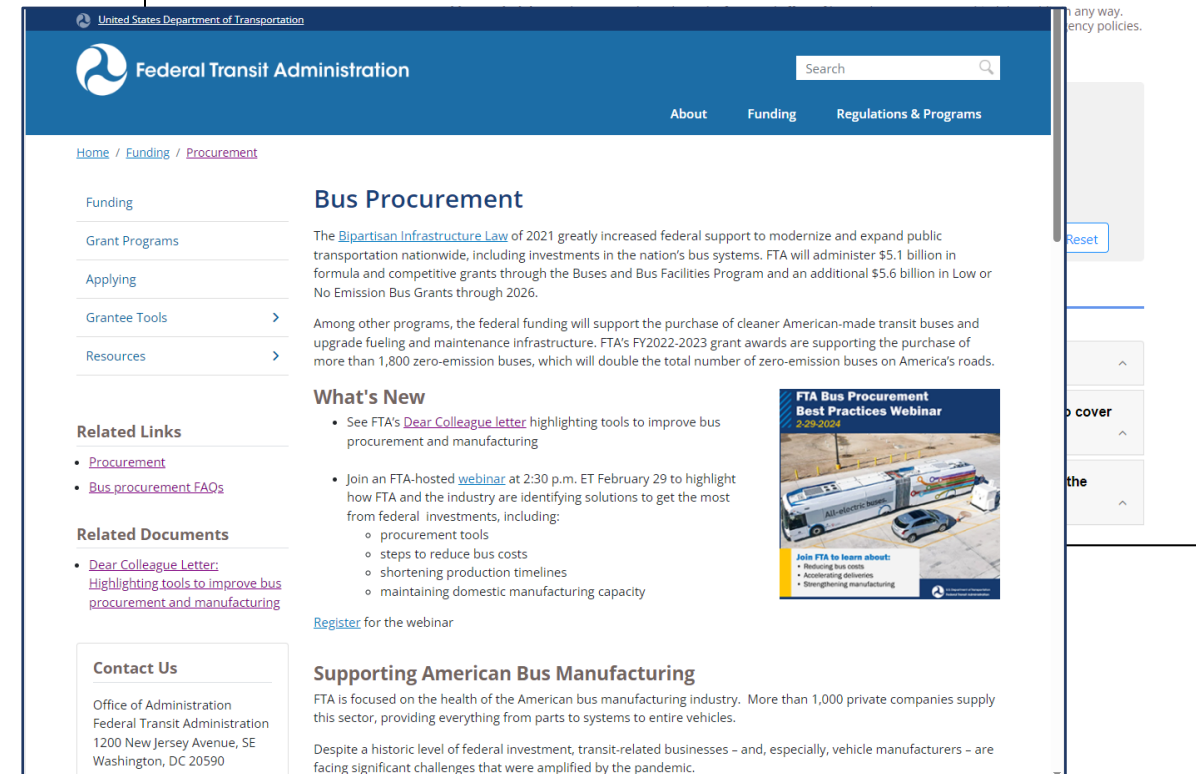


U.S. Department of Transportation
Federal Transit Administration

New Online Resources

FTA Bus Procurement Resources Website

- Consolidate resource links
 - Federal Regulations
 - FTA Third Party Procurement Circular
 - FTA Guidance and Best Practices
- Current procurement considerations for transit agencies
- 30+ new [FAQs](#)
- [Bus Procurement | FTA \(dot.gov\)](#)



New Acquisition Oversight Division

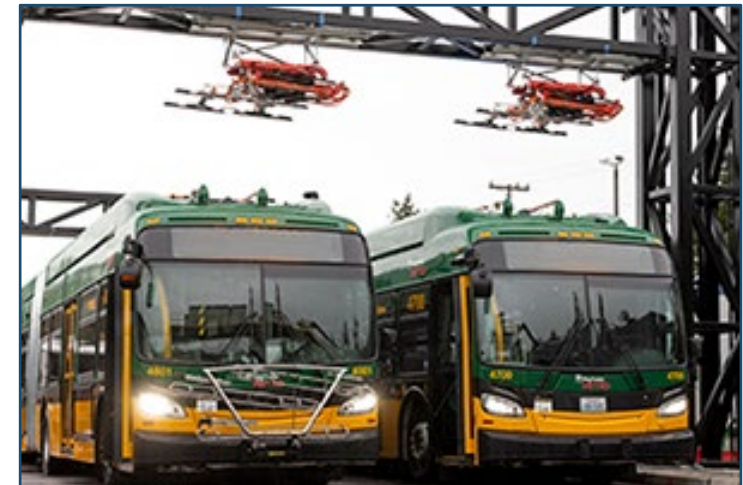
- FTA's new Division is the primary resource for third-party contract management in support of FTA programs:
 - Providing essential guidance on contract policies
 - Comprehensive training for FTA staff and industry stakeholders
 - Maintaining best practices
 - Interpreting and executing acquisition policies
- For grantees, point of contact for all grants management issues, including procurement standards, is the regional office

Office of Administration
Reginald Allen

Office of Acquisition
James Harper

Acquisition Oversight Division
Div. Chief Tara Murphy

New



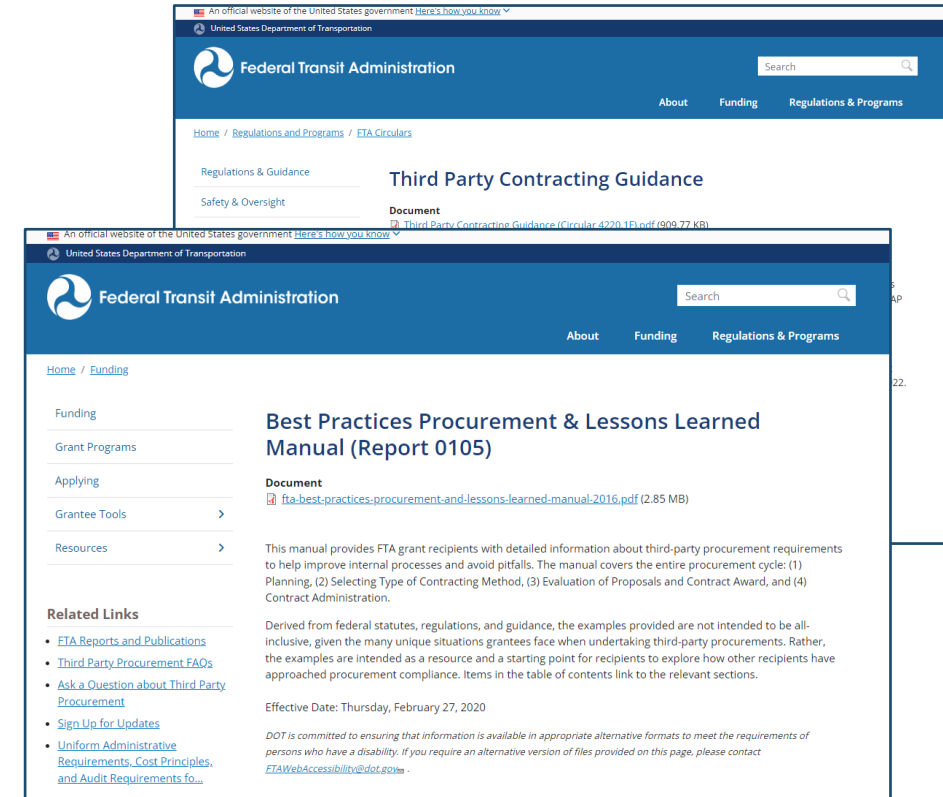
Common Questions

1. Contract modifications for price increases
2. Federal funds for price increase
3. Addressing costs in new contracts
4. Advance payments
5. Progress payments
6. Securing the Federal Interest



Bus Procurement Guidance Resources

- [2 CFR 200](#) (Uniform Requirements or “Super Circular”) Issued by the Office of Management & Budget (OMB), this government-wide regulation sets uniform requirements, cost principles, and audit requirements for Federal awards to non-Federal entities like FTA recipients
- [FTA Third Party Contracting Guidance](#) (Circular 4220.1F)
- [FTA Award Management Requirements](#) (Circular 5010.1E)
- [FTA Best Practices Procurement and Lessons Learned Manual](#)



1. Contract Modifications for Price Increases

FTA recipients can modify a federally assisted contract to address price increases, under certain circumstances



Price Increases, the details...

Federally funded contracts can be modified for price adjustments (2 CFR § 200.318(k)). Allowable modifications depend on factors including:

- Contract terms and conditions (e.g., change clauses, Producer Price Index adjustment clauses, and Consumer Price Index adjustment clauses)
- Applicable state, local, or tribal procurement law
- Terms of a price adjustment; and
- Scope of the contract modification



2. Federal Funds for Price Increase

FTA recipients can seek additional Federal funds to cover contract price increases

Potential sources include:

- FTA formula funds
- Certain other Federal funds (e.g., flexible Federal Highway funds)



3. Addressing Costs in New Contracts

FTA recipients may include price adjustment clauses – allowing for adjustments both up or down – based on cost indices, such as:

- Diesel Bus Price Adjustment (PPI 141)
- Hybrid Alternative Price Incremental Component (PPI 14120503)
- Consumer Price Index
- Producer Price Index

Relevant contract terms/clauses to consider include:

- When prices are set and adjusted
- Which index or indices to use
- “Not to Exceed” ceiling price
- “Brand name or equivalent”



4. Advance Payments

Advance payments are allowed for a bus procurement, under certain conditions



Advance Payments - the details...

Definition: Payments to the contractor prior to the contractor incurring costs. Advance payments can be made:

- **Before FTA grant award using local funds if...**
 - ❑ Recipient has either FTA automatic pre-award authority, an FTA Letter of No Prejudice (LONP), or other pre-award authority prior to making an advance payment using local funds

- **After FTA grant award using local or FTA funds if...**
 - ❑ Recipient provides rationale, such as a reduction in the contract cost due to the advance payment, and receives FTA's advance written concurrence

 - ❑ Recipient obtains adequate security from the contractor for the advance payment. Adequate rolling stock security is subject to negotiation between recipient and TVM, but typically is a performance bond or a letter of credit in the amount of the payment

5. Progress Payments

Progress payments are allowed prior to receipt of buses



Progress Payments - the details...

Definition: Progress (a.k.a. milestone) payments are payments to the contractor prior to completion of all contract work. Progress payments can occur if the FTA recipient:

- a) **Maintains documentation** to show completion of the work associated with the progress payment. The security for rolling stock progress payments is usually a performance bond or letter of credit.
- b) **Obtains adequate security** for those payments to safeguard against performance difficulty. Adequate rolling stock security is subject to negotiation between recipient and TVM; typically, a performance bond or letter of credit in the amount of the payment, but may be receipt of title to vehicles at appropriate point in manufacturing process.

NOTE: Permissible progress payments include completion of discrete activities required for contract performance. Tying progress payments to the percentage of completion of the contract is impermissible.

6. Securing the Federal Interest

Security is only required for rolling stock procurements with advance or progress payments



Security - the details...

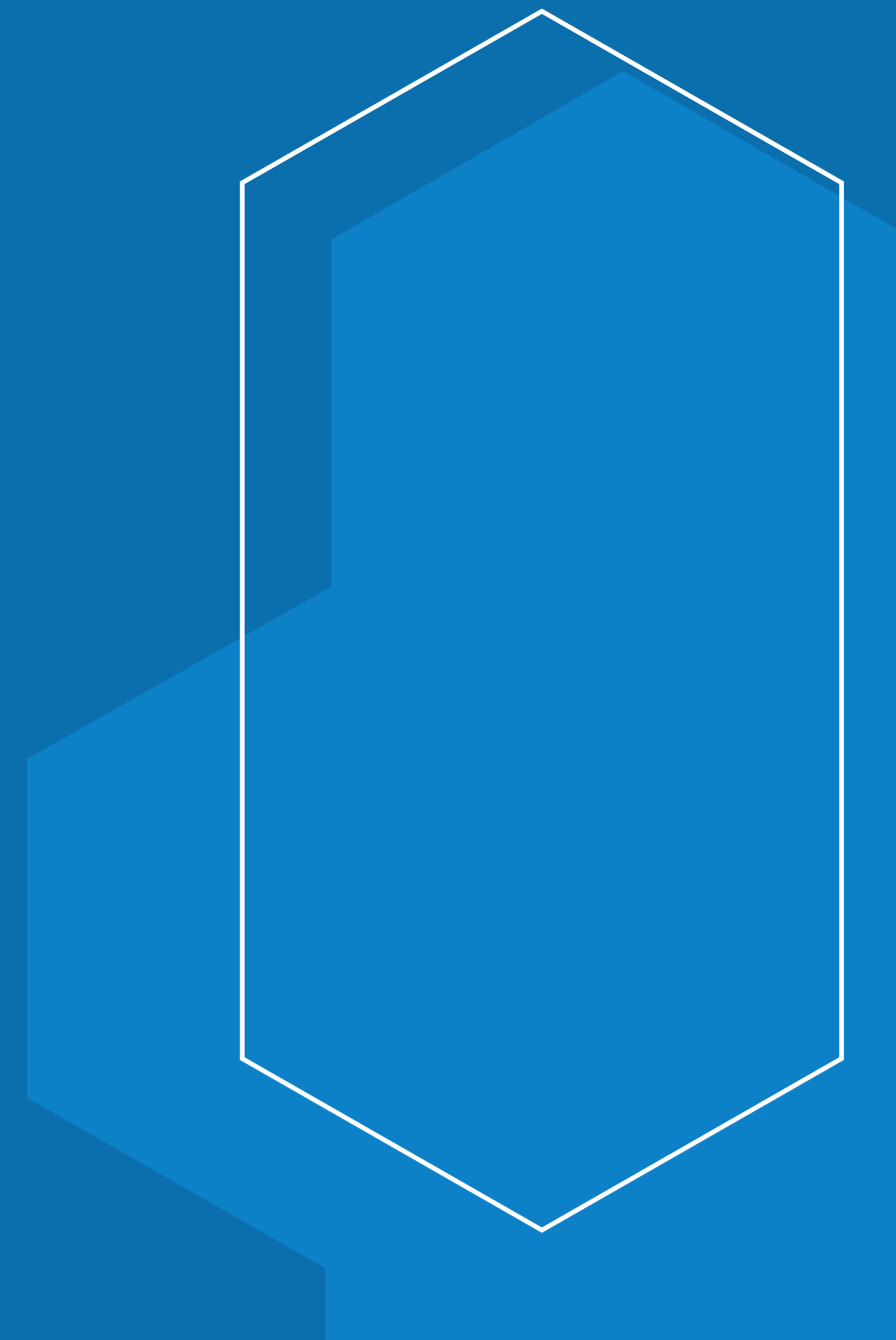
Adequate security – The security amount and type must be adequate to protect the federal interest

Performance bond, letter of credit, or receipt of title - Adequate rolling stock security is subject to negotiation between recipient and TVM, typically:

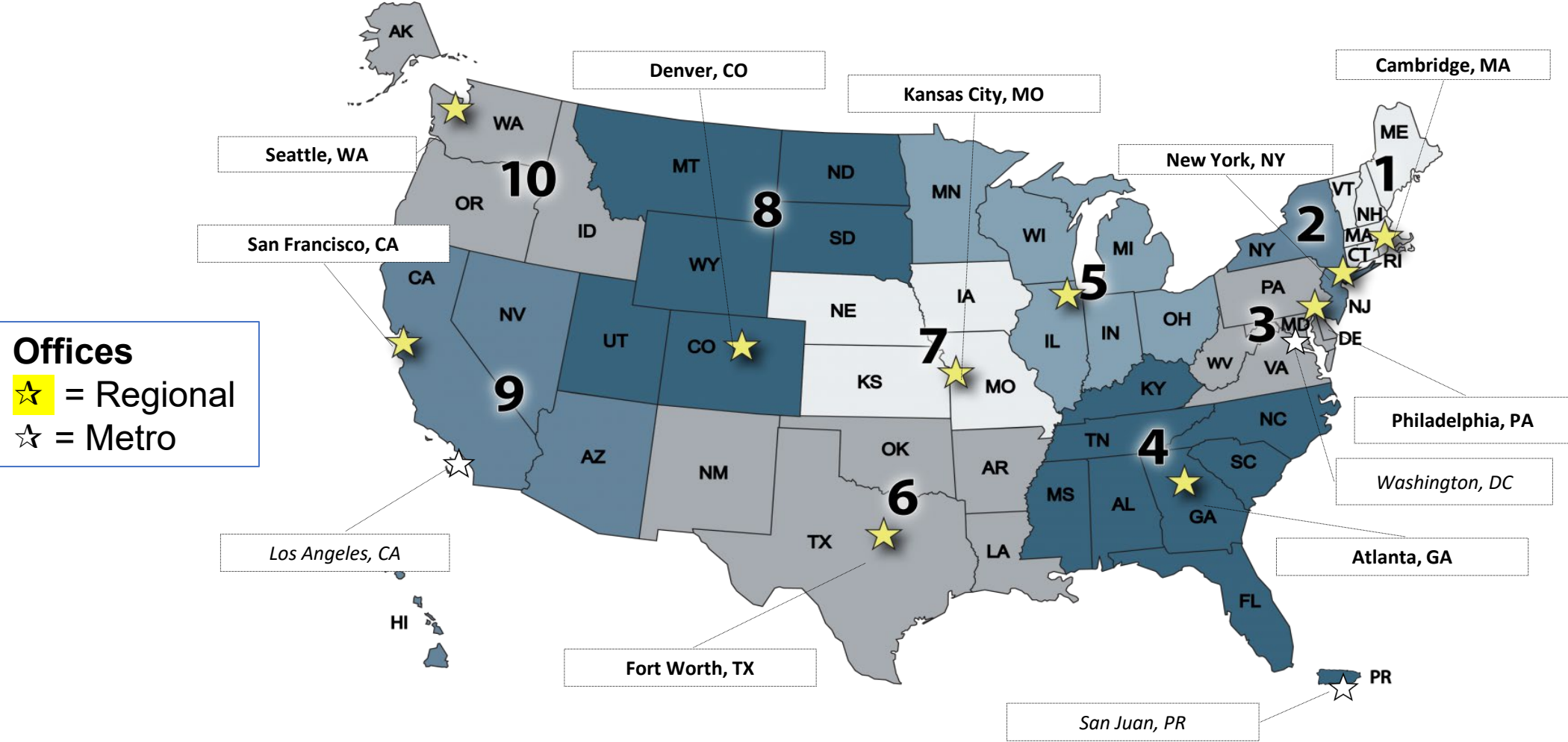
- Performance bond or letter of credit in the amount of the payment, or
- Receipt of title to vehicles at appropriate point in manufacturing process.



Additional Questions Answered



FTA Regional Offices



<https://www.transit.dot.gov/about/regional-offices/regional-offices>

FTA Mission, Vision, Values



Mission

Improve America's Communities through Public Transportation



Vision

A Better Quality of Life for All Built on Public Transportation Excellence

Values

Service

Provide reliable, transparent, responsive, and anticipatory services to meet stakeholder needs

Integrity

Commitment to the highest professional and ethical standards

Innovation

Foster new ideas, concepts, and solutions for improved outcomes

Sustainability

Optimize decisions, resources, and systems to make long-term positive impacts on the environment, infrastructure, and safety

Equity

Remove barriers for systemically underserved communities to access all aspects of economic, social, and civic life