

FTA

FEDERAL TRANSIT ADMINISTRATION

Public Transportation Emergency Relief (ER) Program

Hurricane Sandy Recovery Grantee Guidance

May 28, 2013



U.S. Department of Transportation
Federal Transit Administration

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Program Overview

Distribution of ER Program Funds (\$10.4 billion):

Unavailable due to Sequester (\$545 million)

- Recovery and Rebuilding (\$5.4 billion)
 - *Reimbursements for Categories 1-3*
 - *1st Pro-rated allocations (March 29th notice)*
 - *2nd Pro-rated allocations (May 29th notice)*
 - *Additional funding subject to future allocation*
- Local Priority Resiliency (\$1.3 billion)
- Competitive Resiliency (TBD – Future Notice of Funding Availability)

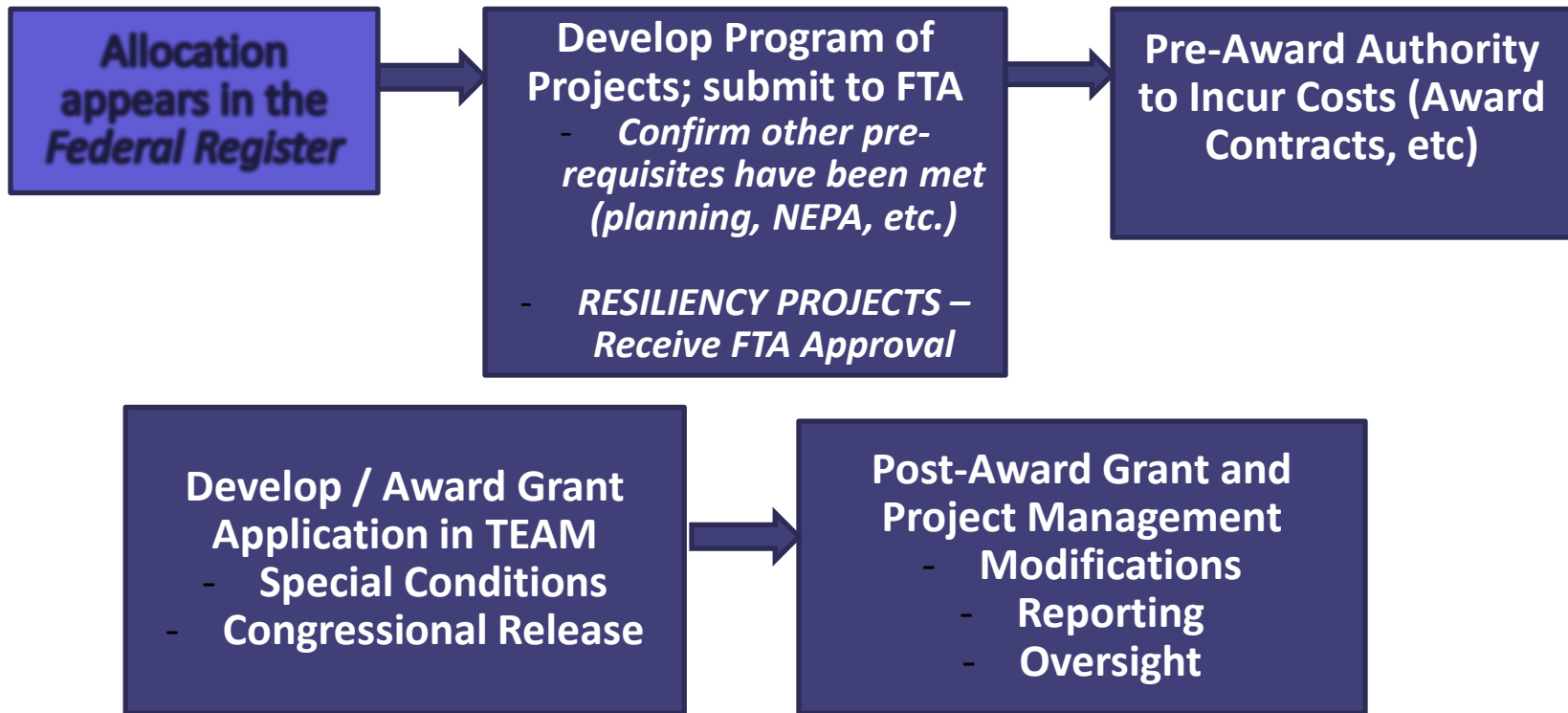
Recovery and Rebuilding

- Repair, Replacement, Reconstruction of **damaged** equipment/facilities to a State of Good Repair
 - Replacement of older features or vehicles with new ones
 - Accessibility and other current design standards (including those that decrease vulnerability to future disasters*)
 - Relocation of a facility when the current location is no longer practical or feasible
 - Changes as a result of the NEPA process
- Temporary Operating Assistance

Resiliency

- Projects and project components designed and built to address future vulnerabilities due to future recurrence of emergencies or major disasters that are likely to occur again in a geographic area
- Specific resiliency projects and improvements should be identified in relationship to the identified vulnerabilities of the transit system to future disasters
- Resiliency funding allocations intended for local priority improvements that can be implemented in tandem with restoration and recovery projects; as well as lower cost stand-alone projects that can be implemented relatively quickly
- FTA pre-approval required
- More to come in terms of guidance and analysis; competitive resiliency

Program Requirements & Grant Development



Pre-Award Authority - Recovery

- **FTA statutory, procedural, and contractual requirements must be met, unless specifically waived**
 - 2/6/2013 Federal Register: Response and Recovery expenses pre-dating storm, and “waived” some requirements for Categories 1-3 expenses
- Not a legal or implied commitment that the project will be approved for FTA assistance or that FTA will obligate federal funds (at Grantee’s Own Risk)
- Program of Projects – should develop and discuss with FTA prior to exercising pre-award authority (which means prior to incurring costs)

Pre-Award Authority - Resiliency

- Not Automatic
- FTA approval of specific resiliency projects and project components
- Program of Projects – develop and discuss with FTA; FTA approval required of the resiliency-funded projects

Program of Projects

- Must contain sufficient information for FTA to confirm:
 - Basic Eligibility of Project
 - Reasonableness of Project; particularly for locally-prioritized resiliency as it relates to recovery projects
 - If project is required to be in the TIP/STIP; if exception is applicable
 - Appropriate environmental documentation and determination
 - How other federal requirements are being met
 - How the grantee considered ABFE+1
- Should be reviewed with FTA before exercising Pre-Award Authority; template forthcoming
- Should refer to projects listed in the damage assessments

Program Requirements

All federal requirements must be met, unless specifically waived

- Planning Requirements
 - Project in the TIP/STIP prior to incurring costs
 - Exception: those that do not involve substantial functional, locational, or capacity changes (which requires a Grantee Certification and document submission to FTA to confirm this exception applies and that local match is available)
- Environmental Compliance (NEPA)
 - New Categorical Exclusions
- Procurement
 - Third Party Procurement Guidelines
- Buy America
- Civil Rights (DBE, Title VI, ADA)

Program Requirements

All federal requirements must be met, unless specifically waived

- Force Account (FA) Plans
 - Use of a recipient's own labor force to carry out a capital project
 - Does not include grant or project administration activities which are otherwise direct project costs; does not include preventive maintenance
 - Grantees must update FA Plans for ER Projects and must have an FA Plan for ER Projects in place prior to incurring costs, unless waived
 - FTA Prior Approval not required for FA Plans related to ER Projects
- Remaining Useful Life
 - Blanket Waiver for damaged or destroyed assets
- Disposition of Assets
 - Reached end of Useful life (or have had Useful Life Waived)
 - Fair Market Value > \$5,000

Program Requirements

- Floodplain Management – Advisory Based Floodplain Elevation + 1 Foot performance standard (ABFE+1)
 - Each recovery and resiliency project requires a documented floodplain evaluation, with guidance to be provided soon
 - Review Executive Order 11988
 - Review floodplain maps and determine zone
 - Determine if project is in a “special hazard area”
 - These locations will *require* mitigation

Program Requirements

- Insurance Proceeds
 - Grantees must reimburse FTA for any insurance proceeds allocated to FTA-funded projects
 - If proceeds are received for an asset prior to FTA participation in replacement costs, grantee must reduce replacement cost and then FTA will participate at 90% in remaining cost
 - If proceeds are received for an asset after FTA participation in replacement costs, grantee must reimburse FTA 90% of the insurance proceeds (refund grant and deobligate the funds to return to FTA)
 - If proceeds are received for a damaged asset (originally federally-funded) and the agency chooses NOT to replace it, grantee must reimburse FTA federal share of the proceeds
 - Forthcoming: guidance on unallocated insurance payments and self-insurance
 - Monthly Insurance Proceeds Report required

Grant Requirements

- Special Conditions
- Discretionary IDs and Congressional Release
- No Department of Labor Certifications
- Use of existing Activity Line Items; duplicate as needed
- Use of Non-Add Scope as needed
- Distinguish between Response and Resiliency Funds
- FTA Approval of all Grant Modifications – Post-Award
- Increased Reporting
 - Select “MONTHLY” on the Initial Federal Financial Report
- Pro-Active Process for all disbursements > \$25M
- 24 month expenditure requirement

Locally-Prioritized Resiliency

- Three categories of “local priority resiliency” projects:
 - Resiliency elements that are specifically tied to a recovery project and are fundamentally integrated into the design of the recovery projects (may use recovery or resiliency funding)
 - In other words these projects also meet the recovery definition of state of good repair
 - Resiliency elements closely associated with, and in the footprint of a recovery project (must use resiliency funding)
 - Stand-alone resiliency projects, not necessarily associated with a recovery project (must use resiliency funding)

Locally-Prioritized Resiliency

- Project identification and prioritization considerations:
 - the identification of and assessment of the reasonable likelihood of a potential hazard or disaster,
 - the vulnerability of a particular system or asset to a particular hazard or disaster, and the criticality of that asset to the overall performance of the transit system,
 - the potential extent of damage to the asset or system from the identified hazard(s),
 - the total cost of implementing the proposed hazard mitigation or resiliency improvement, and
 - the anticipated reduction in damage or other negative impacts that will result from the proposed project.

Locally-Prioritized Resiliency

- FTA Approval based on factors such as:
 - How agencies prioritized the project (based on the suggested considerations)
 - Relationship to a recovery project (if applicable)
 - Reasonableness, including cost compared to the recovery project (if applicable)
 - Impact to environmental review and determination
- Approval can be obtained through POP review or individually for resiliency projects

Resiliency Budgets in TEAM

- Recovery-funded “SGR resiliency-elements” require a non-add scope and extended budget descriptions to identify specific costs that are attributed to resiliency
- Resiliency allocations (\$1.3 B) MUST be used for resiliency projects or project components; must be budgeted & expended separately from recovery funds.
- If Resiliency-funded projects are included in a grant with recovery-funded projects, funds must be expended with unique FPC (FPC 03) for any resiliency funds.

Tracking Resiliency Expenditures

- Unique Financial Purpose Code (FPC-03) for Resiliency Funds - \$1.3B; draw-down request must identify this FPC
- Grantee Draw Down / Reimbursement Requests > \$25 Million requires FTA Prior Review of Request & Confirmation with Grantee before funds are disbursed (24 hours)
- FTA Reviews of Monthly Reports Federal Financial Report (FFR)
 - Project Fund Status (PFS) Review of Disbursements in each Financial Purpose Code
 - Total unliquidated obligations (FFR)

Risk-Based Oversight Approach

- Recognize and address specific risks associated with conducting oversight of Hurricane Sandy disaster relief funds
 - Susceptibility to Improper Payments
 - Susceptibility to Waste, Fraud or Abuse
 - Grantee Experience / Risk
 - Project Risks (Recovery vs. Resiliency)*
 - Market Risks
 - Flood Plain Management
 - Insurance Proceeds
- Apply lessons learned from other recovery and emergency response funding programs
- Leverage existing oversight resources, tools, and framework
- Based on evaluation of Grantee and Project Risk, FTA will design an oversight approach for the grantee and/or project.

Grantee Risk Evaluation

- Examine grantee compliance based on past FTA reviews (Triennial Reviews, Procurement System Reviews, Financial Management Oversight Reviews, Project Management Oversight Reviews)
- Assess Grantee Risk related to:

Technical Capacity	
Financial Capacity	Civil Rights
Financial Management	Project Management
Procurement	Construction Management
Grants Management	Safety & Security Management

Project Risk Evaluation

- Evaluates complex or unique aspects of each project, and grantee's experience with such challenges
- Unique aspects of projects scope including:
 - Technical complexities (e.g. tunnels, hydrology, geotechnical, etc)
 - Special Flood Plain Hazards
 - Special permitting requirements
- Size of the project budget
- Composition/complexity of project management team
- Resiliency aspects
- Third party coordination

Oversight Measures

- All projects over \$100M declared Major Capital Projects
- Project Management Plan required for all projects over \$100M as a condition of grant drawdown
- Integrity Monitors Required for those receiving over \$100M
- Construction Agreements required for all projects over \$500M
 - considered for all over \$100M; based on project risk evaluations

Oversight Measures

- Other project reviews will be on evaluation of risk:
 - Cost, scope, schedule reviews;
 - Risk Assessments;
 - Readiness reviews; etc.
- Quarterly Meetings on MCPs (minimum)
- Payment Reviews
 - Sampling size dictated by grantee risk evaluation
- Insurance Proceed Monitoring

Reporting Requirements

Milestone Progress Reports (MPRs) and Federal Financial Reports (FFRs) will be required monthly.

- Reports can be submitted in the standard TEAM reporting module
- Regions are responsible for monitoring reports
- TPM will monitor grant obligations and drawdowns
- Reports must be submitted 30 days after the close of the month
- Initial FFRs must include funds expended prior to grant award, if pre-award authority was exercised

Reporting Requirements

Insurance Proceeds Reports (IPR) will be required monthly.

- Reports should be submitted as an attachment in TEAM (“paperclip”)
- Use template provided by FTA

Next Steps

- Develop and Submit Programs of Projects
- Send us your questions – next round of FAQs
- Guidance forthcoming on insurance proceeds
- Guidance forthcoming on ABFE+1
- Review Comments on Interim Final Rule (May 28th)
 - Issue a final rule, respond to comments, develop program guidance
- Competitive Solicitation for Resiliency Projects
 - Notice of Funding Availability (NOFA); Grants.Gov

Questions and Answers