Public Transportation
Emergency Relief (ER) Program

Hurricane Sandy Recovery
Grantee Guidance

May 28, 2013
Agenda

- Program Overview
- Recovery, Rebuilding and Resiliency
- Program Requirements
  - Pre-Award Authority
  - Program of Projects
  - Floodplain Management
  - Insurance Proceeds
  - Grant Requirements
- Locally-Prioritized Resiliency
- Risk-Based Oversight Approach
  - Grantee Risk Evaluation
  - Project Risk Evaluation
  - Oversight Measures
- Reporting Requirements
- Next Steps
- Questions and Answers
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

1. Allocation appears in the Federal Register

2. Develop Program of Projects; submit to FTA
   - Confirm other pre-requisites have been met (planning, NEPA, etc.)
   - RESILIENCY PROJECTS – Receive FTA Approval

3. Pre-Award Authority to Incur Costs (Award Contracts, etc)

4. Develop / Award Grant Application in TEAM
   - Special Conditions
   - Congressional Release

5. Post-Award Grant and Project Management
   - Modifying
   - Reporting
   - Oversight
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:

<table>
<thead>
<tr>
<th>Technical Capacity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial Capacity</td>
</tr>
<tr>
<td>Financial Management</td>
</tr>
<tr>
<td>Procurement</td>
</tr>
<tr>
<td>Grants Management</td>
</tr>
</tbody>
</table>
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