



F E D E R A L T R A N S I T A D M I N I S T R A T I O N

Administrative Settlements

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Federal Transit Administration

Administrative Settlements

- What is an administrative settlement

Administrative Settlements

- Can you find a definition in federal regulations?

Administrative Settlements

- **§ 24.102 Basic acquisition policies.**
 - (i) *Administrative settlement.*
 - The purchase price for the property may exceed the amount offered as just compensation when

Administrative Settlements

- reasonable efforts to negotiate an agreement at that amount have failed
- and

- reasonable efforts to negotiate an agreement at that amount have failed and
- an authorized Agency official approves such administrative settlement as being reasonable,
prudent, and
in the public interest.

Administrative Settlements

- When Federal funds pay for or participate in acquisition costs,
a written justification shall be prepared,

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which states what available information, including trial risks, supports such a settlement.

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- (See appendix A, § 24.102(i).)

Administrative Settlements

- This section provides guidance on administrative settlement as an alternative to judicial resolution of a difference of opinion on the value of a property, in order to avoid unnecessary litigation and congestion in the courts.

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- All relevant facts and circumstances should be considered by an Agency official delegated this authority.
- Appraisers, including review appraisers, must not be pressured to adjust their estimate of value for the purpose of justifying such settlements. Such action would invalidate the appraisal process.

Administrative Settlements

- FTA Circular 5010.ID – Grant Management Requirements
- Is there a definition of Administrative Settlements?

Administrative Settlements

- Chapter I – Introduction and Background

Definitions

Administrative Settlements

- Administrative Settlement: Purchase price for property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized Agency official approves such an arrangement. Such an arrangement must be reasonable, prudent, and in the public interest.

Administrative Settlements

- Chapter IV – Project Management

2. REAL PROPERTY

- e. Acquisition of Real Estate and
Concurrence Requirements.

(6) Administrative Settlements (Page IV-5)

Administrative Settlements

- Any settlement in excess of the grantee's approved just compensation must be addressed as an administrative settlement.

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- The term “administrative settlements encompasses both negotiated settlements and legal settlements.

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- Legal settlements are those arrived at prior to a trial on the merits.

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- Administrative settlements in excess of \$50,000 more than the current fair market value require prior FTA concurrence.

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- Instead of using the power of eminent domain when a property cannot be purchased at appraised value, a grantee may propose acquisition through negotiated settlement.

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- The grantee must document that reasonable efforts to purchase the property at the appraised amount have failed and prepare written justification supporting why the settlement is reasonable, prudent, and in the public interest.

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- If the settlement request represents a significant increase over the just compensation and if trial risks are a key factor in the settlement justification, a litigation attorney for the agency must be consulted.

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- The decision to recommend a settlement should evaluate among other relevant matters, the risks of settling for the proposed amount versus the risks of trying the condemnation in court.

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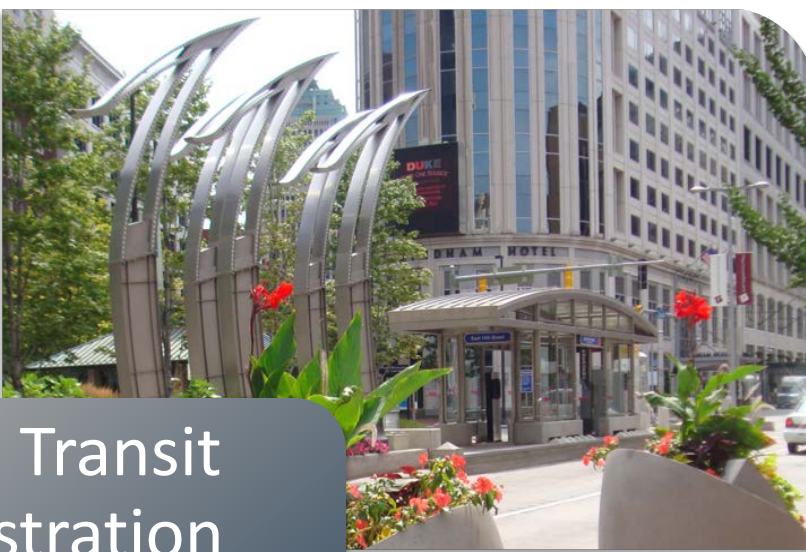
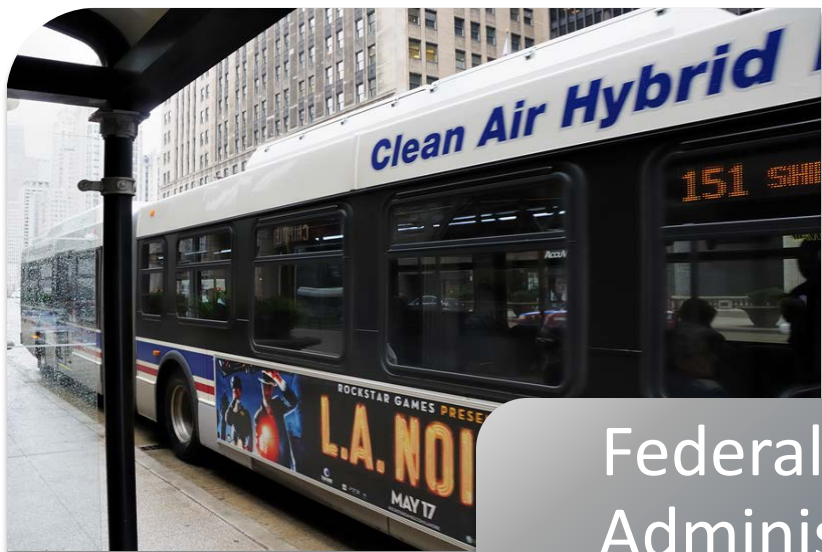
- All settlements must be justified in writing and be available in the project files.

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- The justification shall be thorough,
document the entire settlement process,
demonstrate the logic and reason
supporting the settlement, and
be able to withstand the scrutiny of an
independent review.

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- If either type of settlement exceeds FTA's threshold for approval, it must be submitted to FTA for advance concurrence before the settlement is consummated.



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