



FEDERAL TRANSIT ADMINISTRATION

FTA Joint Development: Policies, Procedures, and Updates

External Webinar
February 9, 2017



U.S. Department of Transportation
Federal Transit Administration

Welcome & Introductions

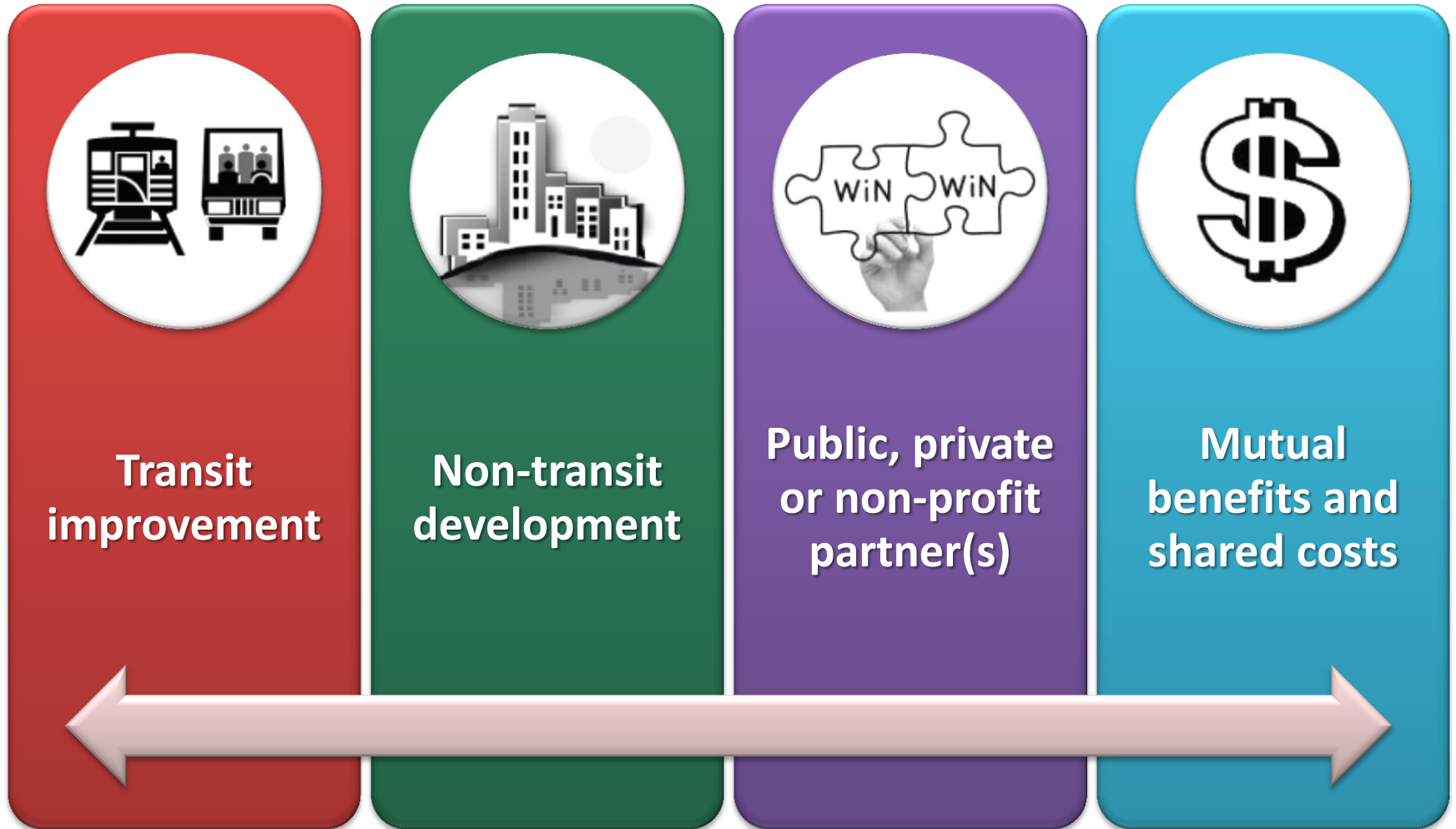
- **Presenters:**
 - Kimberly Gayle, FTA Office of Budget & Policy
 - Daniel Schned, FTA Office of Budget & Policy
 - Rabinder Bains, FTA Office of Budget & Policy
 - Christopher Hall, FTA Office of Chief Counsel

Agenda

- Circular 7050.1A: *FTA Guidance on Joint Development*
 - Overview of FTA's Joint Development Policies
 - Recent Joint Development Project Requests
 - Recent Updates to the Circular
- Submitting Joint Development Project Requests
 - Overview of the FTA Review Process
 - Best Practices for Project Sponsors

Circular 7050.1A: *FTA Guidance on Joint Development*

What is Joint Development?

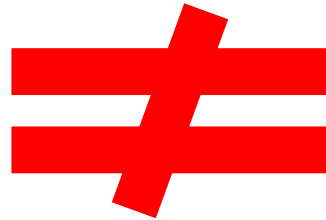


What is FTA-Assisted Joint Development (JD)?

- FTA interest in the JD project, either:
 - New FTA funding, or
 - Property previously acquired with FTA funds
- No FTA funding programs specifically for JD
- FTA-assisted property can be used for JD and FTA funds can be spent on some JD activities (statutory), subject to:
 - Statutory eligibility criteria
 - Use of real property considerations
 - Other cross-cutting federal requirements
- FTA policy established in Circular 7050.1A.

Important Distinctions

Joint Development



Transit-Oriented Development (TOD)
or
Incidental Use

FTA-Assisted Joint Development Eligibility Criteria

i. Creates *economic benefit*

ii. Enhances *public transportation*

iii. Partner(s) provides a *fair share of revenue*

iv. Tenant(s) pays a *fair share of the costs*

i. Economic Benefit

(1) Enhances economic development

- Demonstrate that the JD will contribute to privately or publicly funded economic development activity occurring in close proximity to the transit facility.

OR

(2) Incorporates private investment

- Does not need to be monetary; the amount and form of private investment is up to the project sponsor and its partners.

ii. Public Transportation Benefit

(I) Enhances the effectiveness of transit and is related physically or functionally to transit

- **Transit benefits:** increased ridership, travel-time savings, enhanced wayfinding, improved access, reduced operating costs, etc.
- **Physical relationship:** a direct physical connection to a transit service or facility.
- **Functional relationship:** no physical connection, but ordinarily within the distance most people can be expected to walk/bike to use a transit service.

ii. Public Transportation Benefit

OR

(2) Establishes new or enhanced coordination between transit and other kinds of transportation

- **Enhanced coordination:** shared terminals, ticket counters, or waiting areas, kiss-and-ride facilities, parking lots, walkways, etc.
- **Other kinds of transportation:** intercity bus/rail, taxi facilities, etc.

iii. Fair Share of Revenue

(I) Minimum threshold policy

- Project sponsors must receive revenue equal to, *or greater than*, the amount of the original FTA investment in the JD project.
- *EXCEPTION: Community Service/Publicly-Operated Facilities and Affordable Housing*
 - Can be less than the original FTA investment, but must be based on the actual revenue generated by the community service/publicly-operated facility, or affordable housing.

iii. Fair Share of Revenue

Example:

FTA-assisted real property contributed	1 ½ acres
Original cost of land acquisition (2005)	\$2.25 million
FTA's share of the original cost	80%
Original FTA investment	\$2.25 million X 0.8

$\text{FSR} \geq \$1.8 \text{ million}$

iv. Fair Share of Costs

- (I) Agreement(s) must include provisions for tenants to cover a fair share of the costs to create, operate, and maintain the facility and the occupied space.
- Agreements: rental payments or “other means”.
 - Applicable only when the project provides space within a FTA-assisted transit facility for use by a tenant or for a non-transit purpose.

Real Property Considerations

i. How property is/was acquired

ii. How property is used

iii. How the Federal interest is protected when the property is transferred

i. Real property acquisition

- Real property must be acquired, managed, and used in accordance with applicable laws, regulations, and guidance.

ii. Use of real property

200 C.F.R. 200.311(b): Except as otherwise provided by Federal statutes or by the Federal awarding agency, **real property will be used for the originally authorized purpose** as long as needed for that purpose, during which time the non-Federal entity must not dispose of or encumber its title or other interests.

FTA's Master Agreement includes joint development as an allowable transit purpose.

ii. Use of real property

200 C.F.R. 200.311(b): Except as otherwise provided by Federal statutes or by the Federal awarding agency, real property will be used for the originally authorized purpose as long as needed for that purpose, **during which time the non-Federal entity must not dispose of or encumber its title or other interests.**

Satisfactory continuing control.

Contrast with disposition.

Recent Joint Development Project Requests

Goals/Principles of FTA-Assisted Joint Development (JD)



As a value capture strategy, JD generates revenue for transit capital and operations

JD maximizes the utility of transit system improvements and FTA-funded projects

JD also provides other benefits to transit agencies and local communities

JD is a tool transit agencies use to support specific, locally-preferred TOD

St. Paul, MN

- Project Name: Snelling Ave Soccer Stadium – Ground Lease
- Project Sponsor: Metro Transit



St. Paul, MN

- *Project Name:* Snelling Ave Soccer Stadium – Ground Lease
- *Project Sponsor:* Metro Transit



Source: <https://www.minnpost.com/politics-policy/2016/02/st-paul-prepared-commit-18-million-infrastructure-improvements-soccer-stadiu>

Tacoma, WA

- *Project Name:* Tacoma Veterans TOD
- *Project Sponsor:* Pierce Transit



Tacoma, WA

- *Project Name:* Tacoma Veterans TOD
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Tacoma, WA



FTA-Assisted JD Generates Revenue for Public Transportation

- Of the JD projects FTA approved in 2016:
 - FTA's total original investment = **\$24.8 million**.
 - Project sponsors have leveraged that investment to generate **\$277.8 million** in contracted future revenue for transit purposes.
 - Project sponsors estimate these projects will also generate local economic development benefits and attract private investment worth **\$335 million**.

Recent Updates to the Circular

FTA Joint Development Updates

- August 2014: Circular 7050.1 published
 - Criteria/Eligibility
 - Minimum “fair share of revenue” (FSR)
 - $FSR \geq FTA \text{ Contribution to the JD Project}$**
 - Community service and publicly-operated facilities are not required to meet the fair share of revenue threshold
 - Baseline market analysis
 - Procedural
 - Two-tiered review process
 - Project request form

FTA Joint Development Updates

- December 2015: FAST Act signed into law
 - Changed the definition of “joint development” in 49 U.S.C. § 5302
- December 2016: Circular 7050.1A published
 - Addressed: 1) the change to 49 U.S.C. § 5302 and 2) the “fair share of revenue” minimum threshold policy for affordable housing

The Statutory Definition of JD

- 49 USC § 5302(3) – The term "capital project" means a project for... (G) a **joint development** improvement that... (v) may include... (*14 activities listed*) and...
 - (vi) does not include outfitting of commercial space (other than an intercity bus or rail station or terminal) or a part of a public facility not related to public transportation;

Circular 7050.1A

- To address this change, FTA struck Section 5, “Ineligible Activities,” of Chapter III in the updated Circular 7050.1A

Affordable Housing

- The fair share of revenue minimum threshold is an FTA policy, established in the 2014 Circular (7050.1), was continued in Circular 7050.1A
- FTA modified the fair share of revenue policy for affordable housing projects to make it equivalent to community service and public facilities
 - Allowing the revenue collected to be less than the “fair share of revenue” minimum threshold and instead based on actual revenue generated.

Affordable Housing in Circular 7050.1A

- Definition of “affordable housing” is:
 - “legally binding affordability restricted housing units available to renters with incomes below 60 percent of the area median income or owners with incomes below the area median”
- Language was added that provides affordable housing the same leniency regarding “fair share of revenue” currently provided to community service and publicly-operated facilities

Scenario: Affordable Housing

- Park-and-Ride Redevelopment
 - Bigtown Transit Authority (BTA) is proposing to replace a park-and-ride lot (on land purchased with FTA assistance) with an apartment complex at its Big Falls light rail transit station. BTA will lease the land to a developer, who will demolish the park-and-ride to construct an apartment building in which 25% of the units will be “affordable,” per Circular 7050.1A and the other 75% of the units will be market rate.
- Is this project subject to the FSR threshold?
- What is the FSR threshold for this project?

FSR for Affordable Housing

- First, determine the proportion of the project that is affordable housing.
 - Affordable housing is 25%
- Then, calculate the FSR for the proportion of the project that is NOT affordable housing.
 - $FSR = \text{Original FTA Investment} \times 0.75$

iii. Fair Share of Revenue

Example:

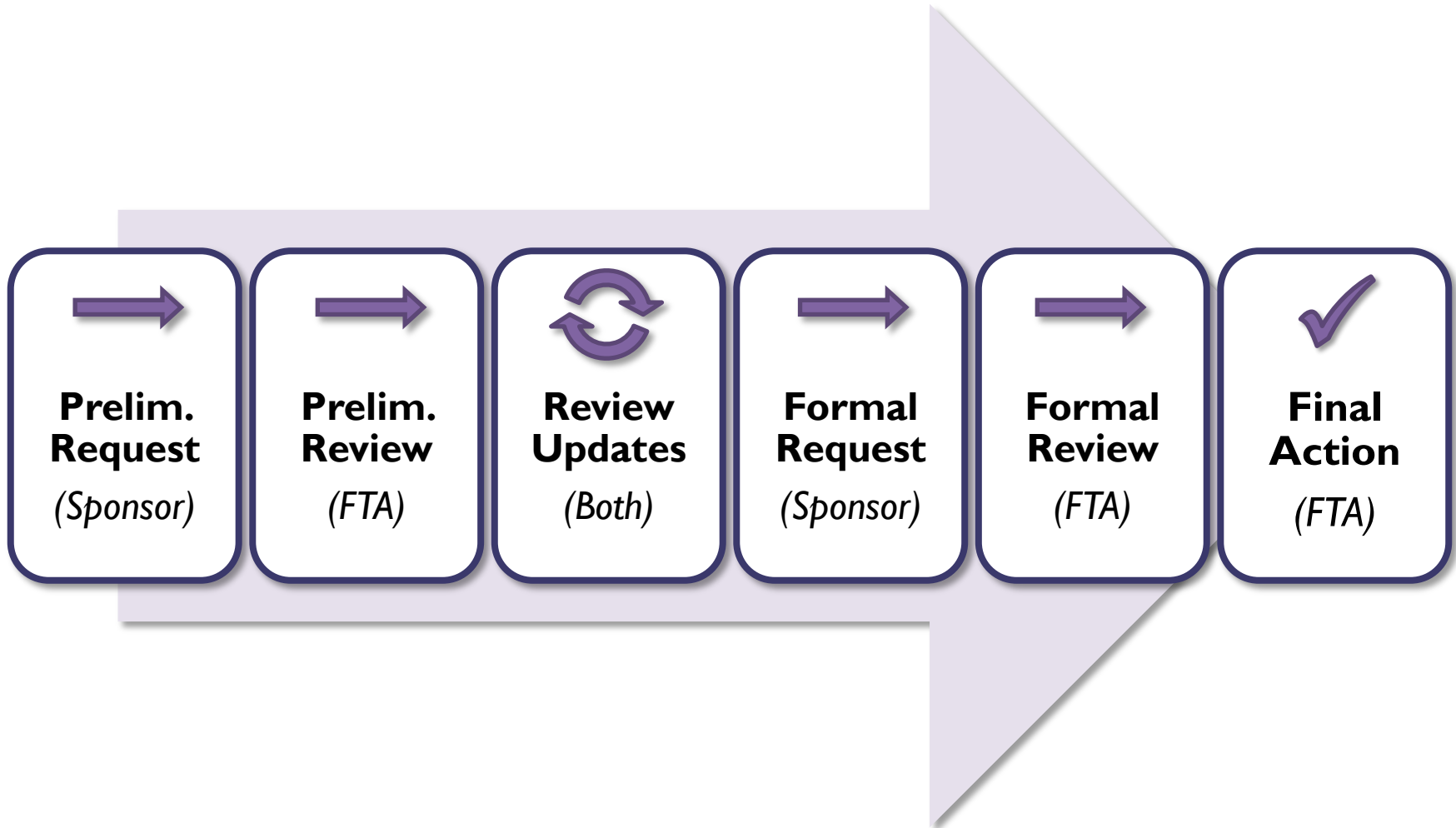
FTA-assisted real property contributed	1 ½ acres
Original cost of land acquisition (2005)	\$2.25 million
FTA's share of the original cost	80%
Original FTA investment	\$2.25 million X 0.8
Market rate share of project	75%

~~**FSR = \$1.8 million**~~

FSR = \$1.35 million

Submitting Joint Development Project Requests

Review Process Overview



Review Process Overview

Preliminary Request

- REQUIRED ELEMENTS
 - ✓ Project Request Form

Formal Request

- REQUIRED ELEMENTS
 - ✓ Project Request Form
 - ✓ Baseline Market Analysis
 - ✓ Certificate of Compliance (or an alternative certificate)
 - ✓ JD Agreement(s) (prior to final execution)
 - ✓ Appraisal(s) and Review Appraisal(s)

Baseline Market Analysis

Project sponsors must certify that a baseline market analysis was conducted...

Why Baseline Market Analysis?

- Provides the market analysis for revenue projections, includes real estate appraisals, market trend analysis and local development plans
- Provides basis for determining the appropriate FSR
- Ensures due diligence
- Project sponsor lists studies conducted and purpose on project request form

Baseline Market Analysis

What may trigger a review the Baseline Market Analysis by FTA?

- To assist project sponsors in preliminary JD review
- Due diligence efforts not documented
 - Baseline market analyses
 - Data sources

Best Practices for Project Sponsors

- ***Communicate early and often*** with FTA regional staff / counsel:
 - determine what is and is not joint development (i.e. disposition, incidental use, etc.)
 - identify the amount of FTA's original investment and calculate the fair share of revenue
 - understand how FTA requirements and project reviews fit into the development timeline
 - develop lease templates or model provisions

Next Steps for FTA Outreach

- Joint Development FAQs
 - Spring 2017
- Joint Development Guidebook
 - Summer 2017

For More Information

- Important Link for FTA Grantees:
 - FTA Resources (Circular 7050.1A, and Project Request and Attachments Forms):
 - www.transit.dot.gov/JointDevelopment
- FTA Headquarters Points of Contact:
 - Daniel Schned, TBP:
 - daniel.schned@dot.gov or 202-366-1652
 - Chris Hall, TCC
 - christopher.hall@dot.gov or 202-366-5218