

FTA – Facility Construction Readiness

October 6, 2022

Federal Transit Administration, Region 8



The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. Recipients should refer to applicable regulations and statutes referenced in this document.



Steps for Developing a Transit Facility Project using Federal Funds

1. Roles and Responsibilities – Tiffany Gallegos
2. Planning Requirements – Emma Belmont
3. Civil Rights – Eboni Younger-Riehl
4. NEPA – Emma Belmont
5. Property Acquisition - Eboni Younger-Riehl
6. Final Design and Construction – Tiffany Gallegos
7. Post Award Management - Eboni Younger-Riehl



When is FTA involved?

- All projects receiving or considering utilizing Federal funds or Federal financial assistance for any phase of the project.
- Timing for involving FTA – Conceptual Level Planning when Federal funds are being Considered to assist in a project.
- Pre-Award Authority – Verify Federal Register Notice for the applicable funding source.



Roles and Responsibilities for FTA Projects

FTA Direct Recipients

- Large and Small Urban Montana Transit Providers
- Existing Direct Recipient of FTA Funds
- Work directly with FTA on NEPA, Civil Rights, award creation and management

Subrecipients of MDT

- All Rural Montana transit providers
- Receive funds through MDT
- MDT is the liaison between the subrecipient and FTA
- Work with MDT to procure and manage planning, NEPA, design and/or Construction Contracts
 - Refer to MDT's State Management Plan for State requirements and processes



MDT and FTA Roles

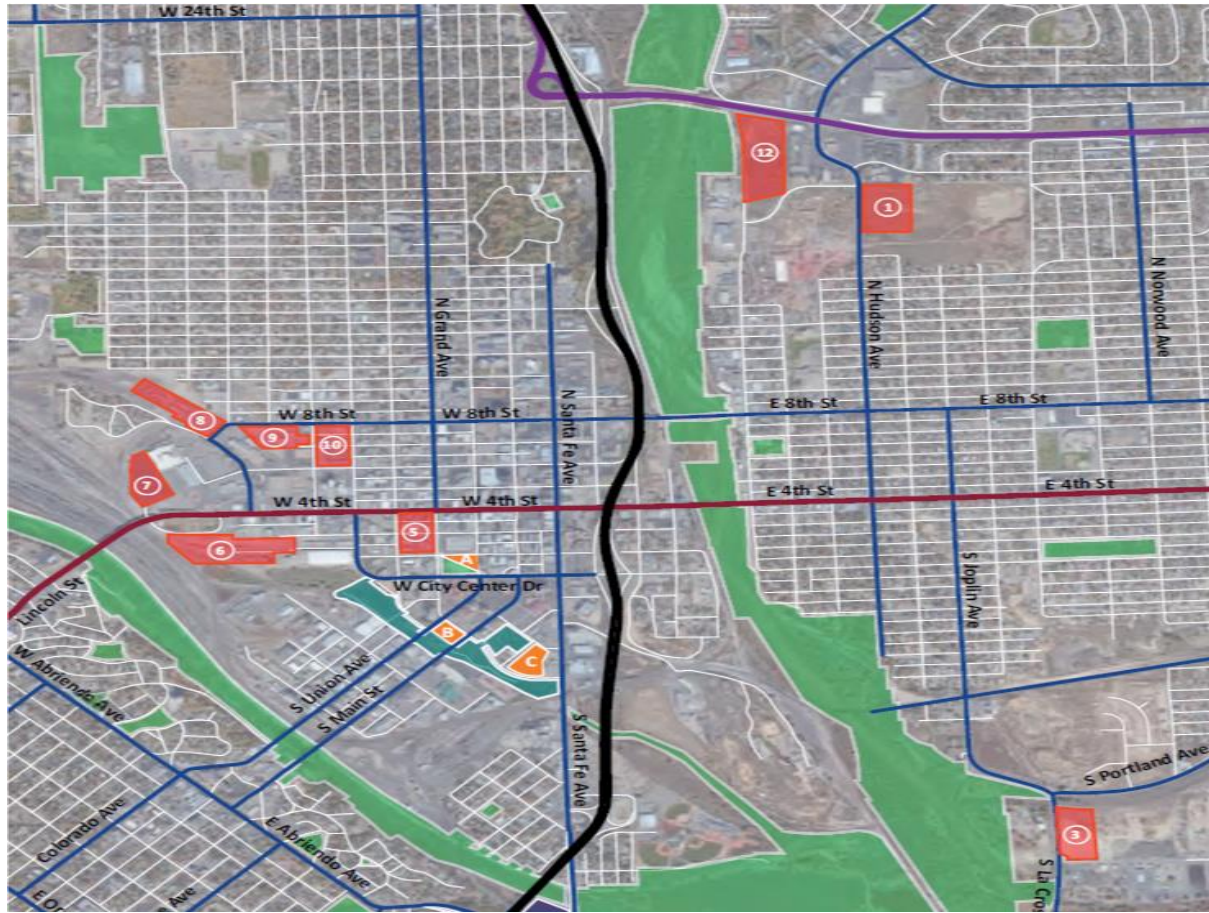
MDT

- Primary Contact for subrecipients
- Subrecipient oversight and monitoring
- MDT develops STIP/MPO develops TIP
- MDT develops SPWP/MPO develops UPWP
- Civil Rights Programs
- Track NEPA progress
- Technical assistance to subrecipients
- Procurement approval processes

FTA

- Primary Contact for direct recipients
- Direct Recipient oversight and monitoring
- Approve STIP/TIP
- Approve SPWP/UPWP
- Civil Rights Programs
- Approve NEPA decision
- Appraisal Concurrence related to grants
- No procurement approvals





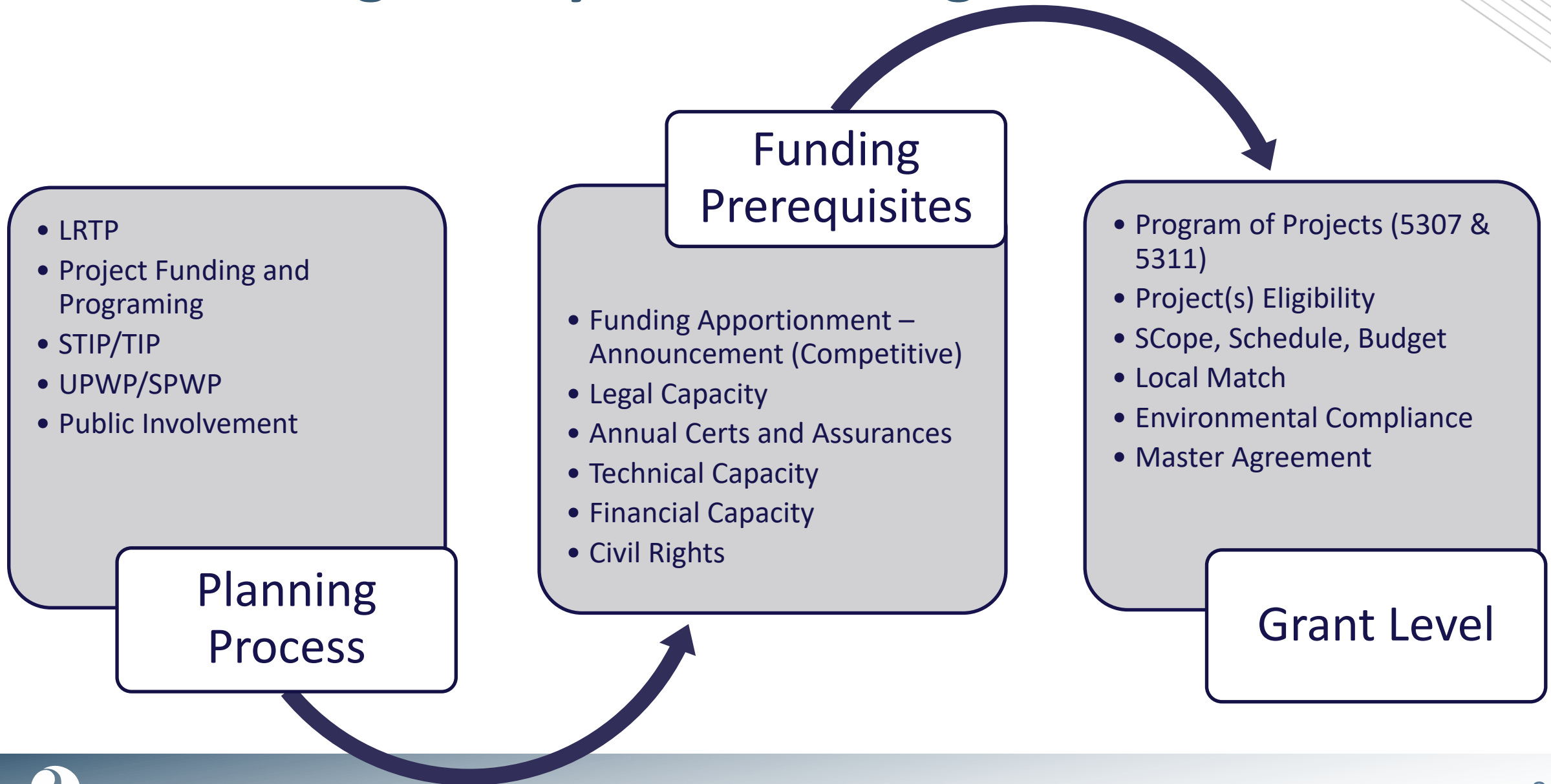
Planning Requirements

23 CFR 450

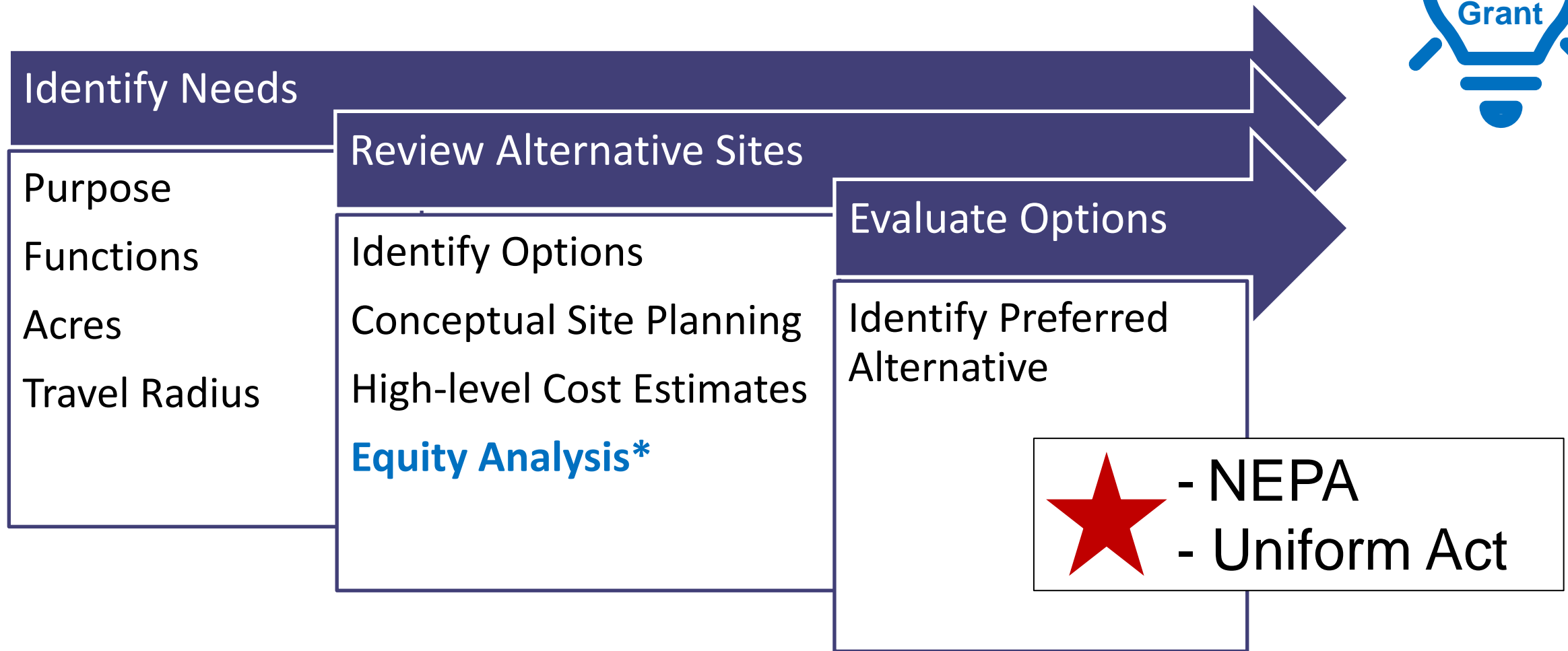
Image source: Pueblo Transit Relocation Study, 2019



FTA Funding Life-Cycle - Planning



Needs Analysis – Best Practice



Identify Purpose and Needs/Scope Project

Transit Operations Support Facility

- Storage/garage facility
- Maintenance bays
- Office/administrative space
- Customer service
- Storage
- Locker rooms
- Breakroom/kitchen
- Dispatching
- Parking
- Drive lanes
- Fuel type

Extending Transit into the Community

- Bus stop improvements
- Park-n-Rides
- Intermodal/multimodal centers
- Bus stations or terminals
- Transit Corridor projects



Additional Considerations

Design/siting

- ADA Accessibility
- Dead-head
- Long-term Needs
- Civil Rights – Equity Analysis
- Phasing/Scalability

Funding

- Local Funding for Match
- Formula or Competitive Funds
- Inclusion in LRTP and TIP/STIP
- Cost Escalation
- Budget and Project Cost Estimate



Have you looped in partners?

- **Local Decision Makers**
- **Municipality, County, State**
- **Funding Partners (FTA/FHWA)**

Utilize Subject Area Experts:

- Consulting Firms:
 - Planning, NEPA, and Engineering experts
- Partner Agencies



Cost Sharing or Matching – 2 CFR 200.306

(Cash and In-Kind Contributions)

CRITERIA:

- 1) Are verifiable from the non-Federal entity's records;
- 2) Are not included as contributions for any other Federal award;
- 3) Are necessary and reasonable for accomplishment of project or program objectives;
- 4) Are allowable under [subpart E of this part](#) (Cost Principles);
- 5) Are not paid by the Federal Government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs;
- 6) Are provided for in the approved budget when required by the Federal awarding agency; and
- 7) Conform to other provisions of this part, as applicable.



In-kind Match

2 CFR 200.306 Continued

- Unrecovered indirect costs
- Value of contributions of services and property
- Volunteer services
- Third-party organization furnishes the services of an employee
- Donated property, including equipment and supplies
- Third-party-donated equipment, buildings and land

Fair market value of goods and services **must be documented** and to the extent feasible supported by the same methods used internally by the non-Federal entity.

Value must be determined in accordance with the usual accounting policies of the non-Federal entity, with the following qualifications:

- Donated land: Uniform Act appraisals
- Donated equipment: FMV Consistent with age and Condition
- Donated space: rental value by appraisal
- Loaned equipment: fair rental value



Early Planning Milestones

- Equity Analysis Complete*
- Conceptual Design (15-30%)
- Cost Estimate
- **Begin NEPA***
- Considerations:
 - Is your plan consistent with LRTPs (MPO or State)?
 - Funding for Planning, Design and/or Construction Activities included in TIP/STIP
 - Before initiating NEPA, Coordinate with FTA



STOP BEFORE YOU BUY!

Planning and Pre-award Contacts

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Transportation Program Specialist

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Community Planner

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Civil Rights

FTA Circulars 4702.1B, 4710.1



Title VI Equity Analysis

- A Title VI equity analysis shall be completed for all facility projects to assess for impacts on minority and low-income populations
- Alternative sites shall be considered, and the least discriminatory alternative should be chosen
- Analysis applies whether locally funded or federally funded
- If an EIS is the required NEPA action, then a recipient is exempt from a Title VI equity analysis



49 CFR Part 21

FTA Circular 4702.1B



ADA Requirements

- All facilities must comply with the ADA standards on facilities
- ADA requirements for transportation facilities are listed in FTA's ADA Circular 4701.1, Chapter 3
- The U.S. Access Board has guides on accessibility standards



49 CFR Parts 27, 37, 38, and 39 FTA Circular 4710.1



DBE Program and Facilities

- Federal funding used in facility projects should be accounted for in DBE reporting
- Contracting opportunities for facility projects should be included in DBE goal setting



FTA Direct Recipients

- DBE semi-annual Uniform Reports
 - ☐ Due: June 1 and December 1
 - ☐ In TrAMS

Subrecipients of MDT

- DBE Reports to MDT
 - ☐ DUE: Quarterly
 - ☐ In CoTRAMS

49 CFR Part 26



Civil Rights Milestones

- Completed Equity Analysis
- Approved Civil Rights Programs

FTA Direct Recipients

- Equity Analysis reviewed during Triennial Review
- Update Civil Rights Programs in TrAMS every 3 years
- FTA Reviews all Civil Rights Programs in TrAMS

Subrecipients of MDT

- Submit Equity Analysis to MDT as part of application package
- MDT Reviews and Approves subrecipients Civil Rights documents on MDT's defined schedule

- **Begin NEPA***



Civil Rights Contacts

FTA Region 8

MDT

Morgan Hecht

Regional Civil Rights Officer

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- Morgan.Hecht@dot.gov





Environmental Requirements

23 CFR Parts 771 & 774



Environmental Review Process

- National Environmental Policy Act (NEPA) of 1969, as amended
 - NEPA applies to:
 - Federally funded actions
 - Locally funded, but with a federal nexus (i.e., actions that require federal approval)
 - NEPA Implementation:
 - CEQ Regulations at 40 CFR parts 1500 – 1508
 - Environmental Impact and Related Procedures - 23 CFR § 771 (joint FTA and FHWA regs)



Environmental Requirements

23 CFR 771 & 774

- Discuss project description and readiness with us – early and often - **prior** to any *property acquisition, final design or construction*.
- Obtain FTA concurrence on NEPA class of action (CE, EA, EIS) early in the project planning phase.
- **Clear entire project** even if funded/Constructed in phase.
- Project must be in **TIP/STIP** and **ADA** Compliant.
- 0.000001 % chance federal funding, now or future, **conduct NEPA**.





NEPA Umbrella

- Native American Graves Protection and Repatriation Act
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
- Americans with Disabilities Act
- Executive Order 12898 (Environmental Justice)
- Executive Order 13045 (Protection of Children)
- Section 4(f) of the DOT Act (49 USC 303)
- Clean Air Act
- Clean Water Act
- Safe Drinking Water Act
- Farmland Protection Policy Act
- Endangered Species Act of 1973
- Fish and Wildlife Coordination Act
- Comprehensive Environmental Response, Compensation, and Liability Act
- Resource Conservation and Recovery Act of 1976
- National Historic Preservation Act of 1966
- Archaeological and Historic Preservation Act
- Archaeological Resources Protection Act
- American Antiquities Act
- American Indian Religious Freedom Act
- Land and Water Conservation Fund Act
- Water Bank Act
- Executive Order 11988 (floodplains)
- Executive Order 11990 (wetlands)
- Executive Order 13514 (federal leadership in Environmental, Energy, and Economic Performance)
- Executive Order 13112 (Invasive Species)

Environmental Resources

- **Section 106 of the National Historic Preservation Act (36 CFR Part 800)**
 - FTA coordination with SHPO required for most construction projects even if *no historic properties affected*
 - Utilize a qualified historian/archaeologist to perform evaluation (required by 36 CFR Part 800)
- **Hazardous Materials** - Phase I ESA ASTM Standard E1527-13 (required for property acquisition)
- **Noise and Vibration** - *FTA Transit Noise and Vibration Assessment Guidance*
- **Section 4(f) of the Department of Transportation Act (23 CFR Part 774)**
 - Protects historic, parks and recreation, wildlife refuges
 - FHWA Policy Paper
- **Environmental Justice**
- **US Fish and Wildlife Service - Section 7**
- **Section 404 Clean Water Act – US Army Corp of Engineers**
- **Floodplains**



Cat Ex Worksheet & Instructions

FTA-REGION-8 CATEGORICAL-EXCLUSION-WORKSHEET

¶

FTA-Region-8 provides this Categorical-Exclusion (CE) worksheet to help project sponsors (recipients) comply with the National Environmental Policy Act (NEPA). The information collected will help to better define the project scope for environmental analysis, identify potential impacts, and determine if other environmental laws and permits apply. If sufficiently completed, it can enable FTA to determine that the project does not result in significant environmental impacts and meets the criteria for a CE. All activities and projects to be supported with federal funds require a NEPA environmental finding as a prerequisite to award of funds. ¶

This CE Worksheet should be completed for C-List projects involving construction and all D-List projects. If a C-List project does not involve construction, you do not need to complete this worksheet. All parts below must be completed prior to FTA review. Compliance with other environmental requirements must also be completed before FTA will issue a determination that the project meets the criteria for a CE. Certain project activities may not begin until this process is complete. For guidance on completing this worksheet, please refer to the CE Worksheet Instructions. ¶

Prior to transmitting a grant application, complete and submit this CE Worksheet using the CE Worksheet Instructions allowing sufficient time for FTA review, especially if other environmental laws or permits apply. For assistance, please contact your assigned FTA-Region-8 Pre-Award Manager, or you may call the office at 303-362-2400. To "check" a box, double-click on the box and select "checked" under default value. ¶

PART A: PROJECT INFORMATION

| | |
|--|--------------------------------|
| Project Sponsor ¶ x | FTA Application No/FAIN ¶ x |
| Project Contact (include mailing address, email address and phone number) ¶ x | |
| Project Title ¶ x | |
| Project Description ¶ ¶ ¶ x | |
| Project Location (include physical address) ¶ x | |
| Is this project included in the current approved TIP and/or STIP? ¶ <input type="checkbox"/> -YES—TIP/STIP ID/Page No.:— → <input type="checkbox"/> -NO—When will it be added? ¶ x | |
| Is this a re-evaluation of a project previously evaluated/approved or currently under construction? ¶ <input type="checkbox"/> -NO ¶ <input type="checkbox"/> -YES x | |

INCLUDE:

- Detailed project description
- Project location/map
- Site plans/graphics
- Specify activities that will be federally funded

If Applicable:

- Historic/Archaeological Reports/Documentation
- Phase I ESA
- Noise/Vibration Worksheet
- Wetland Delineation
- Biological Resources Report



NEPA Milestones

- FTA Letter Approving NEPA Clearance
- **Begin Property Acquisition***
- **Begin Final Design***
- **Considerations:**
 - Helpful to have NEPA Complete/in process when applying for Competitive Funds
 - Early and often Communication with FTA



Environmental Contacts

FTA Region 8

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Environmental Protection Specialist

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Weblinks to FTA SOPs and NEPA Guidance:

- https://www.transit.dot.gov/sites/fta.dot.gov/files/2021-01/Real-Estate-and-NEPA-FAQs_0.pdf
- <https://www.transit.dot.gov/regulations-and-guidance/environmental-programs/environmental-programs>
- <https://www.transit.dot.gov/regulations-and-guidance/environmental-programs/environmental-standard-operating-procedures>





Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act)

49 CFR Part 24

FTA Circular 5010.1E



Uniform Act applies to:

- **All projects** receiving or **considering using Federal funds** or Federal financial assistance where real Property is acquired or persons are displaced as a result of acquisition, demolition, or rehabilitation.
- When Federal funds are used for **any phase** of a project, including:
 - Planning and NEPA
 - Property acquisition
 - Design
 - Construction

Resources:

- [FHWA, Real Estate Acquisition Guide for Local Public Agencies, 2018](#)
- [FTA Real Estate and NEPA FAQ](#)



Purpose of the Uniform Act

The objective of the Uniform Act is to ensure equitable treatment of property owners of real property to be acquired under the federally-assisted Award; that people displaced by a federally assisted Award be treated fairly, consistently, and equitably; and that acquiring agencies implement the regulations in a manner that is efficient and cost effective. The regulations implementing the Uniform Act are very specific in naming the means to achieve those legislated objectives.

Failure to comply with the provisions of the Uniform Act will result in denial of Federal participation in project costs.

FTA Circular 5010.1E



Roles and Responsibilities

Recipients

- If using Federal assistance on any element of the project, the recipient must comply with the requirements of the Uniform Act.

Subrecipients

- Also responsible for complying with the Uniform Act; utilize MDT for technical assistance.
- May use state's staff appraisers to prepare independent appraisals and review appraisals.

FTA

- Recipient submits the Appraisal and Review Appraisal to FTA when:
 - Acquisition value is greater than **\$1,000,000**;
 - In-Kind contribution, or land exchange, of **any value**;
 - Condemnation exceeding **\$1,000,000**;
- Recipient submits Settlement Justification to FTA when:
 - Administrative Settlement in excess of **\$50,000** over the current fair market value.
- FTA reviews and provides PRIOR concurrence letter

FTA Circular 5010.1E



Timing and Limitations

Requirements BEFORE Property Acquisition

- **NEPA**
 - Phase 1 ESA (Hazardous Materials)
 - Provide to appraiser, consider effect on market value
- **Appraisal and Review Appraisal**
 - Owner right to accompany appraiser
 - Determination of Just Compensation
 - Negotiations with property owner must wait for FTA Concurrence

Allowable Preliminary Activities to Complete NEPA and Appraisals

- Relocation planning – owner/tenant
- Preliminary discussions that do not result in binding agreements
 - If engaging in any preliminary negotiations, prepare a statement for the owner's signature indicating that the owner understands these discussions to be preliminary and non-binding as to price and other considerations.
 - Failure to comply with this requirement could violate NEPA or the Uniform Act and may jeopardize project eligibility for any federal funds.

See FTA's Real Estate FAQs



Property Valuation

Appraisal

§ 24.103 Criteria for appraisals, including, but not limited to:

- Property rights to be acquired;
- Value being appraised and its definition;
- Appraisal of contaminated property that would get at the difference in value were the property clean;
- Date of the appraisal report and the date of valuation;
- **Realty/personalty report** (identification of personal property);
- Encumbrances, known and observed, if any;
- Title information;
- Location;
- Zoning requirements and restrictions;
- Present use, and;
- **5-years sales history of the property, minimum.**

REMEMBER

- ☐ Uniform Act Appraisal Requirements, **in addition to all Local Requirements**
- ☐ Qualified Appraiser (State Licensed)
- ☐ Qualified **Review Appraiser**
- ☐ Example Appraisal Scope of Work
 - See FTA Circular 5010.1E, Appendix D

Review Appraisal

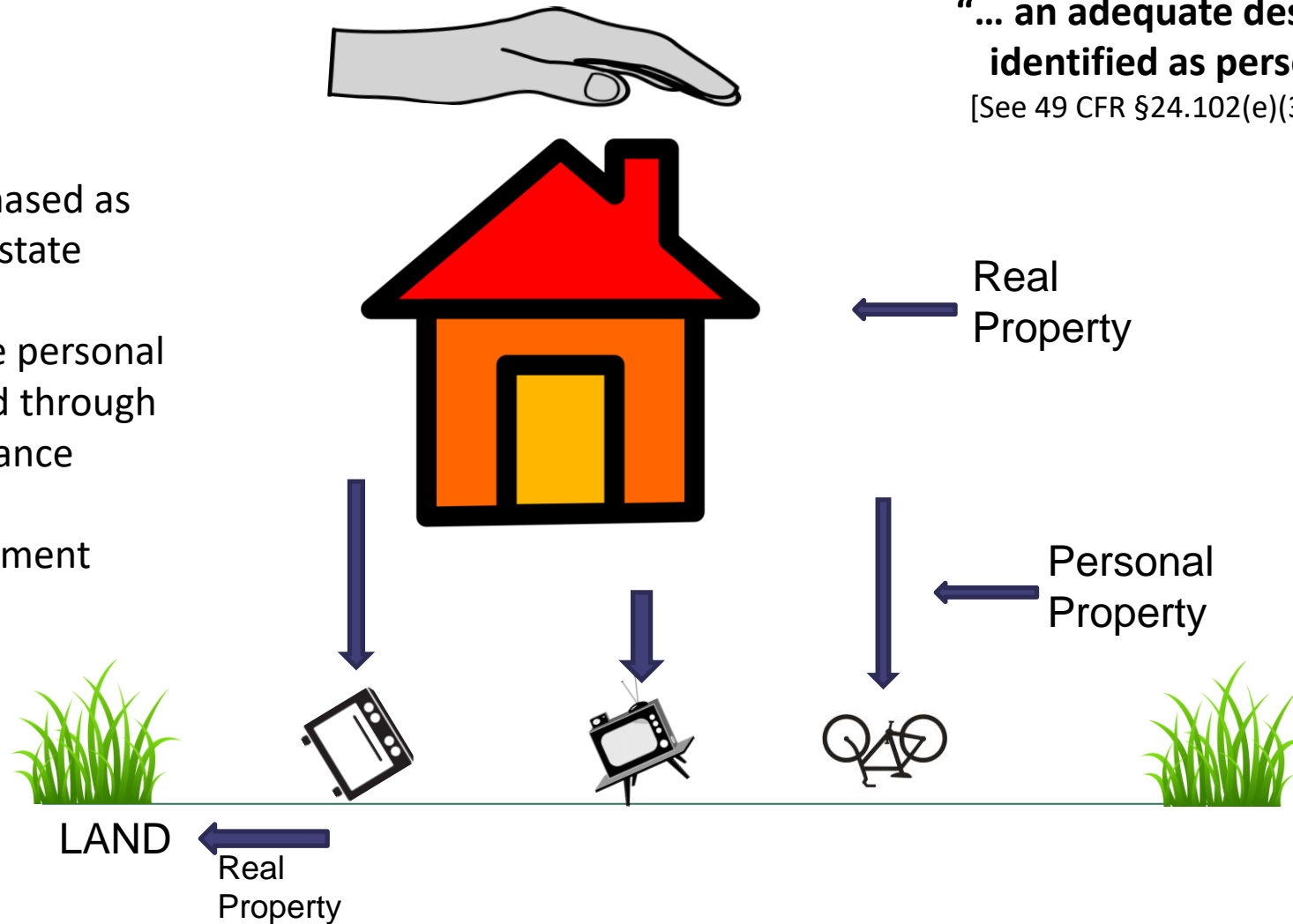
§ 24.104 Review of appraisals, including, but not limited to:

- Assure meet definition of appraisal at 24.2(a)(3) and appraisal requirements in 24.103;
- Seek necessary corrections or revisions;
- Present further market analysis, if needed, to support recommended value;
- Recommend, Accept or Not Accept as the basis for establishment of just compensation;
- Prepare written report.

Real Property vs. Personal Property

Appraisal must include
**“... an adequate description of...items
identified as personal property...”**
[See 49 CFR §24.102(e)(3) and §24.103(a)(2)(i)]

- Identify items purchased as part of the real estate
AND
- Identify items that are personal property to be moved through relocation assistance
- Avoid double-payment



Eminent Domain | Condemnation

- When agreement cannot be reached through negotiations, eminent domain may be used.
- Take private property and convert it to public use.
- Judicial system becomes the forum for establishing just compensation.

Before negotiating KNOW:

- Do you have Eminent Domain authority?
- Who can authorize condemnation?

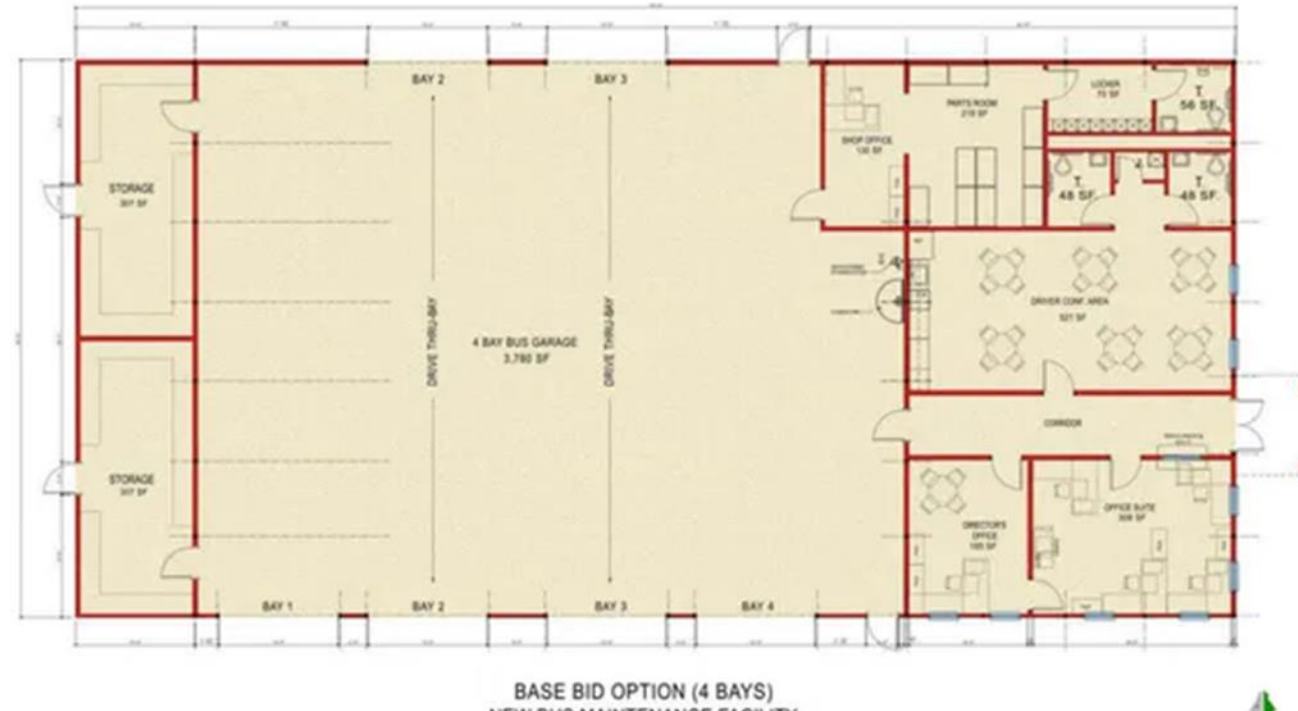
Note: Consult with your State DOT for advice as to what is or is not compensable under your State law.



Real Estate Milestones

- **FTA PRIOR Concurrence Letter** required for:
 - ❑ **ACQUISITION:** Appraisal and Review Appraisal – PRIOR to offer and negotiations
 - If over \$1M, or
 - Land exchange any value, or
 - Condemnation over \$1M
 - ❑ **IN-KIND CONTRIBUTION:** Appraisal and Review Appraisal – PRIOR to grant
 - Property used as local match
 - ❑ **SETTLEMENT:** Administrative Settlement Justification – PRIOR to settlement offer
 - If settlement is \$50,000 above approved just Compensation amount
- **Considerations:**
 - Phase 1 Environmental Site Assessment (ESA), AKA Hazardous Materials Assessment
 - Eminent Domain authority

BUS MAINTENANCE BUILDING



Final Design and Construction

Image source: Courier Post Online



Preparing for Facility Projects

Planning to Construct a facility?

RECOMMENDED READING:

- **FTA Construction Project Management Handbook** February 2016

[HTTPS://WWW.TRANSIT.DOT.GOV/SITES/FTA.DOT.GOV/FILES/DOCS/FTA_CONSTRUCTION_PROJECT_MANAGEMENT_HANDBOOK_2016.PDF](https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/FTA_Construction_Project_Management_Handbook_2016.pdf)

Comprehensive introduction to construction project management and all phases of project development, from project initiation through planning, environmental clearance, real estate acquisition, design, construction, commissioning, and closeout.

RECOMMENDED TRAINING, NTI COURSES:

- Management of Transit Construction Projects
- Project Management for Transit Professionals
- Procurement for Small & Medium Transit Systems



Design Requirements

Americans with Disabilities Act (ADA)

- New facilities, vehicles, and additions and/or alterations to existing facilities are required to comply with regulations issued by DOT implementing the transportation provisions of ADA (49 CFR parts 27, 37, 38, and 39)

Seismic Standards

- Must be designed and constructed in accordance with state, local, and industry required standards or codes, including seismic standards, 49 CFR Part 41

Energy Conservation

- Perform an energy assessment for any building Constructed, reconstructed, or modified with FTA assistance, 49 CFR part 622, subpart C

Utilities

- Generally, reimbursement will **not** fund greater capacity or betterments, except for meeting current state and local codes.
- Buy America applies to utilities, 49 CFR Part 661

Intelligent Transportation Systems (ITS)

- ITS projects must be included in Regional ITS Architecture Plan
- Systems Engineering process
- FTA National ITS Architecture Consistency Policy for Transit Projects: <https://www.transit.dot.gov/research-innovation/national-its-architecture-consistency-policy-transit-projects>

Crime Prevention and Security Review

- Encourage crime prevention reviews, and crime prevention through environmental design techniques
- Improve and increase the safety and security of an existing or planned transit system or facility for both transit patrons and transit employees
- Involve local crime prevention professionals in review



Miscellaneous

Value Engineering

- OBJECTIVE: satisfy the required function at the lowest total costs (capital, operating, and maintenance) over the life of a facility
- Consistent with the requirements of performance, reliability, maintainability, safety, and aesthetics
- Performed early in the design process, before major decisions have been Completely incorporated into the design

Constructability Reviews

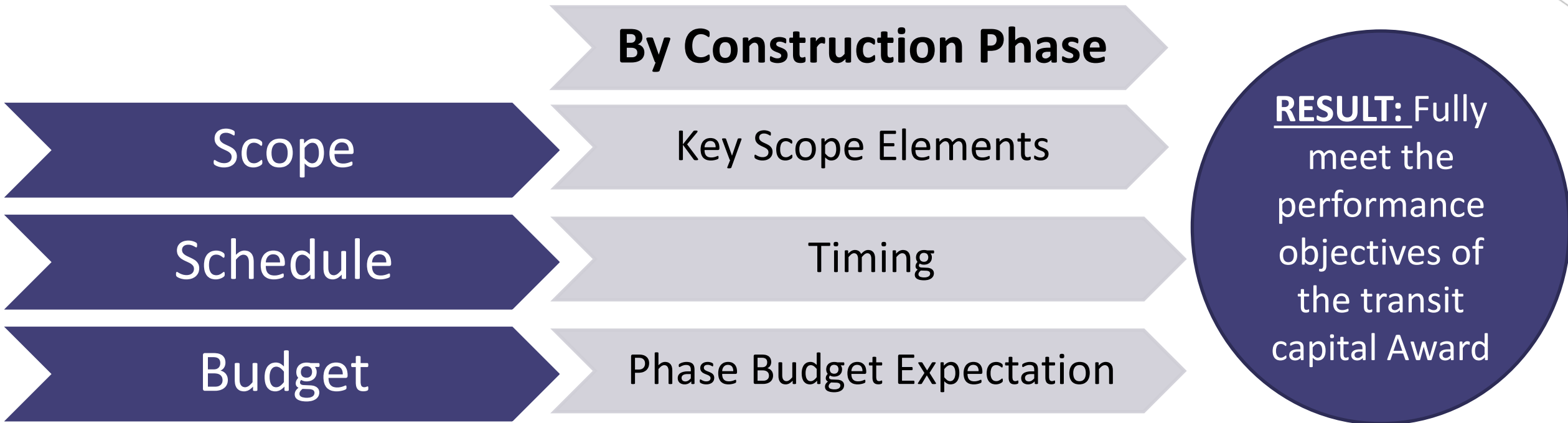
- PURPOSE: improve the performance of the process or product being reviewed
- Optimize design and construction of the project

Betterments, Concurrent Non-Project Activities

- Additional work beyond the transit project
- Economically and efficiently perform other work at same time as the federally assisted project
- Examples of betterments include:
 - increased utility pipe sizes,
 - road widening projects for local reasons,
 - environmental mitigation measures not identified in an environmental document,
 - increased landscaping,
 - signal upgrades beyond the base requirements of the transit project,
 - etc.
- Costs must be accounted for separately and reported to FTA separately from the reporting requirements of the Award.
- **Not billable to FTA grant.**



Managing Construction Project Phases



Adherence to the guidelines should minimize:

- ◆ scope changes
- ◆ schedule slippages
- ◆ cost overruns
- ◆ quality problems

DURING Construction



Final Design & Construction Milestones

Technical Readiness

- Scope
- Cost Estimate
- Schedule

Considerations:

- Inflation
- Contingency
- Change Management



Image Source: The Triple Constraint;
<https://www.smartsheet.Com/triple-Constraint-triangle-theory>

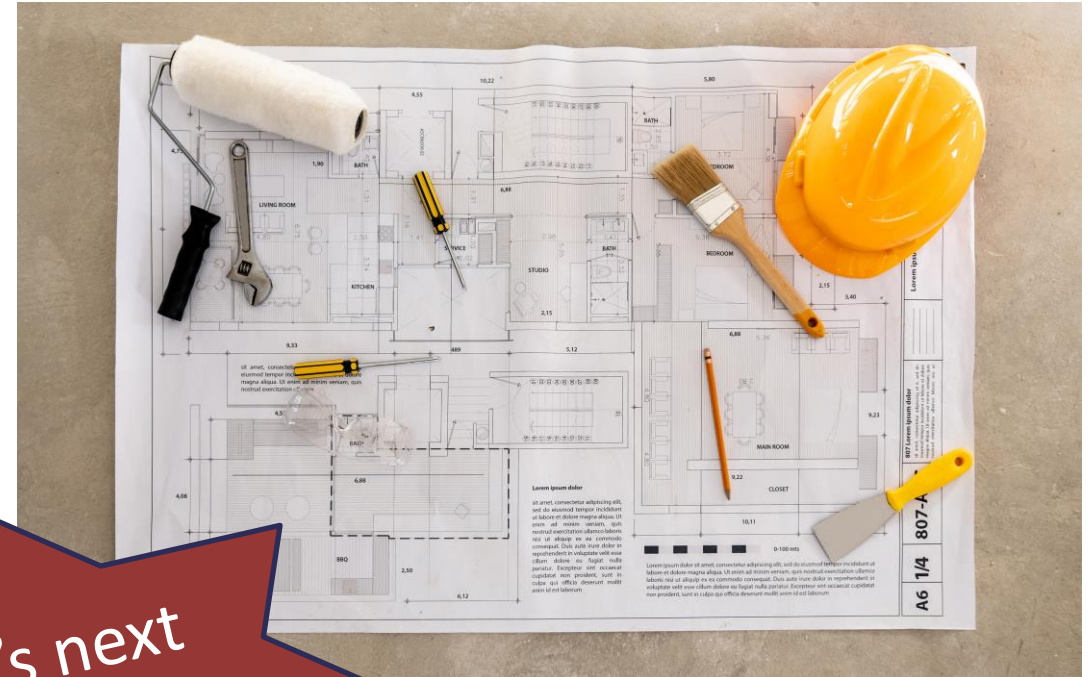
AWARD

CONGRATULATIONS!!

You have successfully planned and prepared for your new facility!

You prepared an outstanding application for federal funding and have received an Award to begin Construction.

What's next with FTA?



MANAGING AWARDS & FEDERALLY-ASSISTED PROPERTY

CIRCULAR 5010.1E, CHAPTERS III & IV
2 CFR 200 SUBPARTS D, E, F

During Award

- Procurement
- Reporting
- Modifications
- Closeout

After Award

- Property Management
- Disposition



Procurement

RESOURCES

- FTA Master Agreement (revised annually)
- 2 CFR Part 200, Subparts D, E, F
- 2 CFR Part 1200 & 1201
- **FTA Circular 4220.1F Third Party Contracting Guidance**
- Best Practices Procurement & Lessons Learned Manual
- FTA Procurement FAQs
- National RTAP – ProcurementPRO

Keep in Mind

- * Award Program Specific Requirements (i.e., Allowable Cost)
- * Buy America Act - 49 CFR Part 661
- * Davis Bacon Act - 29 CFR Part 5
- * Uniform Relocation Act – 49 CFR Part 24
- * Local and State Procurement Requirements

B. APPLICABILITY OF THIRD PARTY CONTRACT PROVISIONS
(excluding micro-purchases, except Davis-Bacon requirements apply to contracts exceeding \$2,000)

| PROVISION | TYPE OF PROCUREMENT | | | | |
|---|--------------------------------------|--------------------------------------|--|--|--|
| | Professional Services/A&E | Operations/ Management | Rolling Stock Purchase | Construction | Materials & Supplies |
| No Federal Government Obligations to Third Parties (by Use of a Disclaimer) | All | All | All | All | All |
| False Statements or Claims and Criminal Fraud | All | All | All | All | All |
| Access to Third Party Contract Records | All | All | All | All | All |
| Changes to Federal Requirements | All | All | All | All | All |
| Termination | >\$10,000 if 49 CFR Part 18 applies. | >\$10,000 if 49 CFR Part 18 applies. | >\$10,000 if 49 CFR Part 18 applies. | >\$10,000 if 49 CFR Part 18 applies. | >\$10,000 if 49 CFR Part 18 applies. |
| Civil Rights (Title VI, ADA, EEO except Special DOL EEO clause for construction projects) | All | All | All | All | All |
| Special DOL EEO clause for construction projects | All | All | All | All | All |
| Disadvantaged Business Enterprises (DBEs) | All | All | All | All | All |
| Incorporation of FTA Terms | All | All | All | All | All |
| Debarment and Suspension | >\$25,000 | >\$25,000 | >\$25,000 | >\$25,000 | >\$25,000 |
| Buy America | | | >\$100,000 As of Feb. 2011, FTA has not adopted the FAR 2.101 \$150,000 standard. | >\$100,000 As of Feb. 2011, FTA has not adopted the FAR 2.101 \$150,000 standard. | >\$100,000 As of Feb. 2011, FTA has not adopted the FAR 2.101 \$150,000 standard. |
| Resolution of Disputes, Breaches, or Other Litigation | >\$100,000 | >\$100,000 | >\$100,000 | >\$100,000 | >\$100,000 |
| Lobbying | >\$100,000 | >\$100,000 | >\$100,000 | >\$100,000 | >\$100,000 |
| Clean Air | >\$100,000 | >\$100,000 | >\$100,000 | >\$100,000 | >\$100,000 |
| Clean Water | >\$100,000 | >\$100,000 | >\$100,000 | >\$100,000 | >\$100,000 |

§ 1201.317

Notwithstanding 2 CFR 200.317, subrecipients of States shall follow such policies and procedures allowed by the State when procuring property and services under a Federal award.



Buy America - 49 CFR Part 661

What's new!

- Build America, Buy America Act (BABA) (Sections 70901-52 of IIJA)
- Memorandum [M-22-11](#) – Outlines initial guidance for implementation of BABA
 - All iron and steel produced in U.S.
 - All manufactured products shall be produced in the U.S.
 - All Construction materials are manufactured in the U.S.
 - Applies to all Federal Financial Assistance, whether or not funded through IIJA.

Ongoing Requirements:

- Applies to all procurements including 3rd Party procurements
- Under limited circumstances, waivers may be granted
 - [Notices of Buy America Waivers](#)
- Rolling stock
 - After 2020, at least 70% of Component Costs must meet Buy America
 - Assembly must occur in the U.S.

Made In America Office (MIAO) – created from Executive Order dated January 25, 2021, on Ensuring the Future Is Made in All of America by All of America's Workers



Reporting

- ☐ Milestone Progress Reports* (see next slide for details)
- ☐ Federal Financial Reports
- ☐ Other Reports, as required by Program (CIG, RAISE, TIFIA, other)

FTA Direct Recipients

- 5339/5309 Construction Projects
 - ☐ Due: Quarterly
 - ☐ In TrAMS

Subrecipients of MDT

- 5339/5309 Construction Projects
 - ☐ Report to MDT following MDT Requirements

**FTA Circular 5010 1E, Ch III section 3 – Reporting Requirements
2 CFR 200. Subpart D**



Reporting Cont...

Milestone Progress Reports

Primary written Communication
between the Recipient and FTA

- 1) Current status of each milestone, actual Completion dates, revised dates.
- 2) Narrative of activity status, problems in implementation, bid solicitation, resolution of protests, third-party Contract awards.
- 3) Detailed discussion of all Budget and Schedule changes.
- 4) Explanation why milestones not met.
- 5) Problem areas and narrative on solutions.
- 6) Discussion of expected impacts and efforts to recover from delays.
- 7) Analysis of each significant cost variance, completion and accepts of construction work, breakout of costs incurred. Use quantitative measures.
- 8) List all outstanding claims >\$100,000 and claims settled during period. Brief description, estimated costs, reasons for claim.
- 9) List all potential and executed change orders >\$100,000, pending or settled during period. *(This does not imply notification, acceptance or approval of budget changes that may be required.)*
- 10) List all third-party claims or litigation: >\$100,000, controversial matter of any value, or highly publicized matter of any value.
- 11) List all real property acquisition actions, just compensation, litigation, settlements, condemnation during period.
- 12) All rolling stock ALIs must include a milestone for contract award.



Post Award Modifications

Amendments

- Use when CHANGE to:
 - Scope (add or take away scope)
 - Federal funding (add federal \$, deobligate federal \$)
 - NEPA determination changes
- FTA Regional Administrator approves

Budget Revisions

- MOVE small amounts of money between existing grant line items.
- Use when NO change to:
 - Scope
 - Purpose
 - Type or amount of federal funding
- FTA Post-Award Manager approves

FTA Direct Recipients

- Coordinate with FTA Post-Award Manager before initiating changes in TrAMS
- Approval in TrAMS
- Competitive funding Awards may have additional reviews/approvals

Subrecipients of MDT

- Coordinate with MDT
- May need to write justification for changes
- MDT will work with FTA



Award Closeout

Within 120 days after:

- a) Period of Performance end date, **or**
- b) All activities are complete, **or**
- c) All federal funds expended for eligible costs

Submit closeout documentation:

1. Confirm complete and confirm any deobligation amount
2. List of property (see asset lists)
3. Final reconciled budget (aligns w/ final FFR and asset list, adjustment to Federal share * important for disposition purposes)
4. Final FFR (consistent w/ final reconciled budget)
5. Final narrative MPR
6. Any other documentation or reports required by grant



Closeout – Asset List for Real Property

Real Property Records need to include:

- a) property location/physical address;
- b) use and condition of the property;
- c) summary of conditions on the title;
- d) brief description of improvements, expansions, and retrofits;
- e) corresponding useful life for the assets;
- f) date placed in service;
- g) original acquisition cost;
- h) sources of funding;
- i) federal and non-federal participation ratios;
- j) federal award identification number;
- k) appraised value and date;
- l) anticipated disposition or action proposed;
- m) date of disposal; and
- n) sale price of the property.

Blank until
disposition

*C5010.1E, Ch IV Section 2.i(5)
2 CFR §200.311



Closeout – Asset List for Equipment

Equipment Records must include:

- a) A description of the asset;
- b) The identification number or serial number;
- c) The entity or individual that holds title to the asset;
- d) The source of funding (the FAIN number under which it was procured);
- e) The acquisition date;
- f) The Cost of the asset;
- g) The percentage of federal participation in the Cost;
- h) The location;
- i) The use and Condition;
- j) The useful life; and
- k) The disposition data, including the date of disposal and sale price, or, where applicable, method used to determine its fair market value.

ASSET:
Capitalized in
accordance with GAAP
> \$5000, and
> 1 yr useful life

Blank until
disposition

*C5010.1E, Ch IV Section 4.n(1)
2 CFR §200.313



Property Management

Title: Vested in the recipient or other public bodies.

- Include a covenant in the title of real property assuring non-discrimination during the useful life.

Use: Must be used for the originally authorized purpose as long as needed for that purpose.

- Must not dispose, modify use, or encumber title without prior FTA written approval.

Maintenance: Must be appropriately maintained.

- Have a written Facility Maintenance Plan.

Insurance: Flood insurance, if required. (100-yr flood zone)

Minimum Useful Life:

- Minimum useful life of facilities is 40 years.
- Land does not depreciate and does not have a useful life.
- Construction, buildings, and improvements occupying the land do have useful lives.
- FTA retains its interest until disposition.

*C5010.1E, Ch IV Section 2.i



Disposition – Real Property

No longer needed for transit purpose

- ***Sales procedures*** shall be followed that ***provide for competition*** to the extent practicable and result in the highest possible return or at least payment of appraised fair market value.
- ***Fair Market Value*** by appraisal and review appraisal
 - follow Uniform Act (49 CFR Part 24)
- ***Request instructions from FTA***

Written instructions will document federal interest and what to do with proceeds

Review disposition options:

- C5010, Ch IV Section 2.j
- 2 CFR § 200.311(c)

FTA Circular 5010.1E Ch IV – Management of the Award
2 CFR § 200.310-316 – Property Standards



Reporting on Real Property

FTA C 5010.1E CH IV, Section 2 Real Property, (i)

Annual Real Property Inventory –

reports on the status of real property that the Federal Government retains an interest in.

- Real properties with greater than 15-year Federal Interest may report on multi-year frequencies, not to exceed 5 years
- Reviewed as part of State Management Review (SMR) or Triennial Review

Inventory Requirements:

- Physical address/location,
- Use and condition,
- Summary of conditions on title,
- Original acquisition costs,
- Source of funds,
- Brief description of improvements,
- Useful life of assets,
- Date placed into service,
- Federal participation ratios,
- Federal award identification number
- Appraisal Value and date
- Etc.

Review Inventory Requirements:

- C5010, Ch IV Section 2(i)(2)-(6)(a)3a-e



Oversight and Post-Award Contacts

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