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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
  - 1\textsuperscript{st} Pro-rated allocations (March 29\textsuperscript{th} notice)
  - 2\textsuperscript{nd} Pro-rated allocations (May 29\textsuperscript{th} 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

Allocation appears in the Federal Register

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

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

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

Post-Award Grant and Project Management
- Modifications
- 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)

  - 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:

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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 28\textsuperscript{th})
  – 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