4910-57-P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Second Allocation of Public Transportation Emergency Relief Funds in Response to Hurricane Sandy: Response, Recovery & Resiliency

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of allocation of Emergency Relief funds.

SUMMARY: The Federal Transit Administration (FTA) announces the allocation of $3.7 billion under the Public Transportation Emergency Relief Program (Emergency Relief Program, Catalogue of Federal Domestic Assistance #20.527) to the four FTA recipients most severely affected by Hurricane Sandy: the Metropolitan Transportation Authority, New Jersey Transit Corporation, the Port Authority of New York and New Jersey, and the New York City Department of Transportation. This amount is in addition to the initial $2 billion allocation announced in the March 29, 2013 Federal Register notice, bringing the total amount of Hurricane Sandy Emergency Relief funds allocated to-date to $5.7 billion. Within the $3.7 billion announced in this notice, FTA is allocating $2.4 billion for additional recovery and rebuilding projects and $1.3 billion for project elements or freestanding projects that increase the resiliency of the affected transit systems to future disasters. Such resiliency investments shall be subject to specific conditions cited in this notice. FTA is allocating funds consistent with the requirements of the Disaster Relief Appropriations Act of 2013 (Pub. L. 113-2), Interim Final Rule for the Emergency Relief Program, 49 CFR part 602, published in the Federal Register on March 29, 2013, the Notice of Availability of Emergency Relief Funds published in the

Federal Register on February 6, 2013, and additional requirements and program guidance included in the March 29, 2013 Federal Register notice.

FTA anticipates allocating additional funding for recovery and rebuilding and announcing the availability of competitive funding for eligible resiliency projects in areas impacted by Hurricane Sandy in a subsequent notice.

Prior to submitting grant applications to FTA for the funds allocated in this notice, recipients should develop a list of potentially eligible projects, consistent with the Emergency Relief Program rule, at 49 CFR § 602.17, and submit and review the list of projects with the applicable FTA Regional Office.

Affected recipients are granted pre-award authority as of the publication date of this notice for recovery and rebuilding projects; pre-award authority for the $1.3 billion allocated for resiliency projects may be contingent upon FTA's prior approval as described later in this notice. Prior to exercising pre-award authority, recipients should work with the appropriate Regional Office to ensure that the applicable Federal requirements are followed.

All funds allocated in this notice must comply with FTA and other Federal requirements as described in the Interim Final Rule. Recipients may request waivers of FTA administrative requirements by submitting a request to www.regulations.gov, FTA docket number FTA-2013-0001, as described in the Emergency Relief Program rule at 49 CFR § 602.15, however, recipients should not proceed with a project under the expectation that waivers will be provided. Additional program requirements, considerations and grant application procedures specific to these funds are included in this notice.

FOR FURTHER INFORMATION CONTACT: Contact the appropriate FTA Regional Office found at http://www.fta.dot.gov for application-specific information and other assistance needed in preparing a TEAM grant application. For program-specific questions, please contact Adam Schildge, Office of Program Management, 1200 New Jersey Ave, SE, Washington, DC 20590, phone: (202) 366-0778, or e-mail, Adam.Schildge@dot.gov. For legal questions, contact Bonnie Graves, Office of Chief Counsel, same address, phone: (202) 366-4011, or e-mail, Bonnie.Graves@dot.gov. For questions about direct transfers to other modes within Department of Transportation, please contact Vinn White, Office of Policy, Office of the Secretary, same address, phone: (202) 366-9044, or e-mail, Vinn.White@dot.gov; or Ed Beightel, Office of Policy, Office of the Secretary, same address, phone: (202) 366-8154, or email, Ed.Beightel@dot.gov.

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I. Considerations for Recipients of Emergency Relief Funds

A. Allocation of Funds

FTA's Emergency Relief Program (49 U.S.C. 5324) was authorized by Congress in the Moving Ahead for Progress in the 21st Century Act (MAP-21, Pub. L. 112-141) and provides FTA with primary responsibility for reimbursing emergency response and recovery costs after an emergency or major disaster that affects public transportation systems. The Disaster Relief Appropriations Act provides $10.9 billion for FTA's Emergency Relief Program for recovery, relief and resiliency efforts in areas affected by Hurricane Sandy. However, as a result of the Office of Management and Budget's March 1, 2013, report to Congress required by the Balanced Budget and Emergency Deficit Control Act of 2011 (Pub. L. 112-25) for fiscal year (FY) 2013, approximately five percent, or almost $545 million of the $10.9 billion, is subject to sequestration and is unavailable for Hurricane Sandy disaster relief. That leaves approximately $10.3 billion available. FTA is allocating the remaining $10.3 billion in multiple tiers for response,

recovery and rebuilding, for locally-prioritized resiliency projects, and for competitively selected resiliency projects, which will be solicited in a future notice of funding availability.

FTA is allocating funding in this notice for recovery and rebuilding and for locally-prioritized resiliency projects based on detailed damage assessments submitted by affected agencies and prepared in cooperation with FTA and Federal Emergency Management Administration (FEMA) staff. FTA contractors validated the methodologies affected agencies used to estimate the costs of the damage. These affected agencies included the following major transit agencies:

- The Metropolitan Transportation Authority (MTA), doing business as:
  - MTA New York City Transit (NYCT);
  - MTA Bus Company (MTA Bus);
  - MTA Metro-North Railroad (MNR);
  - MTA Long Island Railroad (LIRR);
  - MTA Capital Construction Division (MTACC);
- The New York City Department of Transportation (NYCDOT);
- The Port Authority of New York and New Jersey (PANYNJ) which operates Port Authority Trans Hudson (PATH) rail service and the rebuilding of the World Trade Center Transportation Hub and site; and
- New Jersey Transit

The damage assessments include an initial overall cost of recovery and rebuilding for the affected agencies, excluding projects to improve the resiliency of the affected systems to future disasters, which totals approximately $5.83 billion.

On March 29, 2013, FTA published an allocation of $2 billion to affected recipients for eligible emergency response and recovery costs, less a takedown for program implementation and oversight. FTA allocated funds in that notice in two parts: First, FTA allocated approximately $576.6 million to affected agencies based on specific emergency response and recovery costs that were incurred or budgeted to date. Second, FTA allocated approximately $1.4 billion to the four agencies most severely impacted by Sandy proportional to each agency's projected overall recovery costs. Of this $1.4 billion, FTA set aside approximately $28 million for other affected agencies that may have additional response and recovery expenses not reimbursed to-date. The funding allocated under that notice was equivalent to approximately 32 percent of the projected total recovery costs for the four most severely affected public transportation systems, not including the costs of improvements designed to increase the resiliency of the affected transit systems to future disasters. Both the current and previous allocations are based on detailed damage assessments compiled by the affected agencies in cooperation with FTA and FEMA.

FTA is now allocating an additional $3.7 billion in Emergency Relief Program funding to the four agencies above, based on a percentage of the anticipated full cost of recovery and rebuilding. Of the $3.7 billion allocated in this notice, FTA is allocating $2.4 billion for eligible recovery and rebuilding projects, as outlined in the previous allocation notice and the Interim Final Rule. Combined with the previous allocations (see 78 FR 19357, March 29, 2013), total allocations for recovery and rebuilding are equivalent to approximately 70 percent of the total projected recovery costs for the hardest hit agencies. The remaining $1.3 billion allocated in this notice is being provided

on a pro-rated basis to these recipients for the cost of projects and project components that are intended to increase those public transportation systems' resiliency to future disasters (resiliency projects). As a result of these allocations to date, the four hardest hit agencies will be permitted to use approximately 23 percent of their Emergency Relief allocations for locally prioritized resiliency projects and improvements, subject to FTA approval.

Based on FTA's earlier damage assessment efforts and applications submitted for immediate response and recovery costs, FTA is aware that other public agencies suffered serious damage and may request funding for resiliency projects, including, but not limited to, Massachusetts Bay Transportation Authority, Southeastern Pennsylvania Transportation Authority, Connecticut Department of Transportation, New York State Department of Transportation and many smaller transit agencies such as the City of Long Beach and Nassau County Intercounty Express (NICE); and the counties of Putnam, Rockland and Westchester. FTA has funded response and recovery costs for these agencies under the previous allocation, and has reserved approximately $28 million for additional longer-term recovery and rebuilding projects for these and other affected agencies, which may not have received a pro-rated allocation. These and other eligible entities, which may not be limited to transit agencies, will be permitted to apply for competitive resiliency project funding in a subsequent notice. Evaluation criteria and project eligibility for competitive resiliency project funding will be published in a notice of funding availability.

Recipients of local prioritized resiliency funds made available under this notice are encouraged to pursue projects of a scale and nature commensurate with the funding

distribution levels made herein. Primarily, recipients are encouraged to coordinate, as appropriate, resiliency improvements in tandem with recovery and rebuilding projects where joint implementation will prove cost effective. Local prioritized resiliency funds allocated under this notice are also intended for lower cost, stand-alone resiliency improvements that can be implemented relatively quickly. Conversely, larger scale, high cost resiliency investments – particularly those that involve major new infrastructure projects with longer, more complex planning and pre-construction activities; and/or that involve multiple agency contributions beyond a single recipient – will likely be better suited to the subsequent competitive resiliency funding, subject to a future notice that will specify appropriate eligibility and evaluation criteria.

FTA encourages eligible project sponsors to secure funding available under the Disaster Relief Appropriations Act through the formula allocation set forth in this and prior notices and the competitive application process that will be announced in a future notice. FTA nonetheless recognizes that there may be some projects that are eligible for funding under the Disaster Relief Appropriations Act that are not readily fundable through FTA's Emergency Relief Program. In those limited cases, the Secretary may use his authority under the Act to directly transfer resiliency funds to other agencies to fund programs authorized under titles 23 and 49, United States Code, in order to carry out resiliency projects in areas impacted by Hurricane Sandy. Necessity and urgency are among the factors the Department of Transportation (DOT) will consider in allocating funding to a project outside the formula or competitive processes. While project sponsors are encouraged to use the formula and competitive sponsors if feasible, interested parties may contact the Office of the Secretary for additional information about the direct

transfer process. Should the Secretary make any such transfers, those funds would be administered by the agency receiving the transfer, separate and apart from FTA administrative requirements outlined in this notice.

The following chart[1] illustrates the overall allocation of funding under the FTA Emergency Relief Program:

Award Type	**Applicants**	**Available Funding**	**Damage assessment/ Criteria**
Response, Recovery & Rebuilding	Affected FTA Recipients	$4.4 billion	Damage assessments submitted by affected agencies and reviewed by FTA, and costs incurred by affected agencies
Locally-Prioritized Resiliency	MTA, NJT, PANYNJ, NYCDOT	$1.3 billion	Resiliency Projects and Project Components as outlined in this notice
Competitive Resiliency	Statutorily Eligible	TBD in subsequent notice	TBD in subsequent notice
Response, Recovery & Rebuilding	Affected FTA Recipients	$1.1 billion (to be announced in a subsequent notice)	Damage assessments submitted by affected agencies and reviewed by FTA, and costs incurred by affected agencies
Direct Transfer Resiliency	Eligible DOT grantees/funding recipients	TBD	TBD

[1] The Secretary is authorized by the Disaster Relief Appropriations Act to transfer emergency relief resiliency funding to other DOT operating administrations for eligible projects.

	implementing programs authorized under titles 23 and 49 U.S.C.		

B. Use of Funds for Recovery and Resiliency Projects

Consistent with the February 6, 2013, Federal Register notice, funds allocated in this notice for recovery and rebuilding projects must be used by affected agencies for the cost of emergency operations, emergency protective measures, and emergency and permanent repairs to (or the replacement of) assets that suffered serious damage as a result of the storm. Eligible projects include the repair or replacement of public transportation vehicles, infrastructure and other assets that were seriously damaged by Hurricane Sandy.

Since a significant portion of the seriously damaged transit infrastructure was technologically obsolete, and hence not appropriate to replace in-kind or to restore to the exact previous condition, FTA will fund recovery and rebuilding projects that bring transit assets up to a state of good repair. For the purposes of this allocation, a project is considered to bring the transit assets up to a "state of good repair" if it consists of the installation of comparable equipment that meets the same basic function, class, or capacity of the equipment replaced and also meets current technological or design standards, or a like-new condition. FTA may permit some adjustment to meet current needs, for example, to match other recent equipment purchases of an agency and to ensure compatibility or consistency (e.g. replacing a 35' bus with a 40' bus, purchasing a bus with a different propulsion system; installing the same fare payment systems as other

recent acquisitions). Projects that significantly alter the function or capacity of the underlying transit asset or infrastructure are not eligible recovery and rebuilding projects.

Specifically, when repairing or replacing facilities and infrastructure damaged or destroyed by Hurricane Sandy, the following activities are eligible for Emergency Relief funding: 1) replacement of older features with new ones; 2) incorporation of current design standards, including those that decrease an asset's vulnerability to future disasters or that increase access to persons with disabilities, including those who use wheelchairs, to the extent practicable; 3) replacement of a destroyed facility to a different location (from its existing location) when driven by resiliency decision-making or when replacing it at the existing location is not practical or feasible; and 4) additional required features resulting from the National Environmental Policy Act (NEPA) process. Rolling stock and other equipment used in public transportation that was damaged or destroyed before the end of its useful life may be replaced with new rolling stock and equipment. The cost of improvements or changes designed solely to improve the resiliency of transit infrastructure is not eligible as a recovery and rebuilding project expense, and must be funded from the $1.3 billion allocated in this notice specifically for resiliency projects or resiliency funds made available in the future.

Resiliency projects funded from the $1.3 billion must be intended to reduce the risk of serious damage from future disasters. As defined in the Interim Final Rule, resiliency is defined as "a capability to anticipate, prepare for, respond to, and recover from significant multi-hazard threats with minimum damage to social well-being, the economy, and the environment." Further, a resiliency project is "a project designed and built to address future vulnerabilities to a public transportation facility or system due to

future recurrence of emergencies or major disasters that are likely to occur again in the geographic area in which the public transportation system is located; or projected changes in development patterns, demographics, or extreme weather or other climate patterns."

As such, resiliency projects include eligible FTA transit capital projects as defined under 49 U.S.C. 5302(3) that are designed and built to reduce the risk of serious damage to a vulnerable asset or aspect of the public transportation system. Resiliency projects may also consist of the costs of specific improvements associated with eligible recovery and rebuilding projects that increase the resiliency of the transit asset or system once rebuilt. All resiliency projects funded from the agency's resiliency allocation must be reviewed and approved by FTA, either individually or as part of a program of projects.

Examples of resiliency projects may include: the relocation of critical infrastructure above projected flood levels; waterproofing sensitive equipment and facilities; installing additional or higher capacity water pumps; implementing infrastructure improvements to reduce the intrusion of water into the transit system; improving communications equipment used in disaster management; and the installation of alternate or redundant sources of power for lighting, flood pumps, and dispatch facilities. Specific resiliency projects and improvements should be identified in relationship to the identified vulnerabilities of the transit system to future disasters.

As indicated in section I.A. "Allocation of Funds," resiliency funding allocated in this notice is intended primarily 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. To inform their project priorities, recipients should use information such as damage assessments from past disasters, including

Hurricane Sandy, FEMA's Advisory Base Flood Elevation (ABFE) Maps (see, e.g., http://www.region2coastal.com/sandy/abfe), or other hazard vulnerability assessments, and should consider identifying and prioritizing projects for funding based on at least these five considerations:

1) the identification of and assessment of the reasonable likelihood of a potential hazard or disaster,
2) 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,
3) the potential extent of damage to the asset or system from the identified hazard(s),
4) the total cost of implementing the proposed hazard mitigation or resiliency improvement, and
5) the anticipated reduction in damage or other negative impacts that will result from the proposed project.

In addition, with regard to a Hurricane Sandy-related resiliency project located in a floodplain, FTA recipients should consider the requirements of Executive Order 11988 discussed later in this notice.

Recipients are encouraged to consult resources published by FTA for transit agencies under FTA's Climate Change Adaptation Initiative (http://fta.dot.gov/climatechange), including the report "Flooded Bus Barns and Buckled Rails: Public Transportation & Climate Change Adaptation." Although the procedures for developing and selecting resiliency projects may differ between FTA and FEMA programs, FTA recipients are also encouraged to review FEMA's hazard mitigation planning and project development resources at http://www.fema.gov/hazard-mitigation-planning-resources.

C. Pre-award Authority

In the February 6, 2013, Federal Register notice, FTA granted pre-award authority to affected recipients for expenses incurred in preparation for Hurricane Sandy (e.g., evacuation, relocation, protecting and safeguarding assets) and for response and recovery expenses incurred as a result of Hurricane Sandy. Pre-award authority allows affected recipients to incur certain project costs before grant approval and retain the eligibility of those costs for subsequent reimbursement after grant approval.

If a recipient intends to use pre-award authority for the recovery and rebuilding funds allocated in this notice, FTA recommends the recipient submit a proposed program of projects to FTA to verify that all pre-requisite requirements have been met, and that the proposed costs are all eligible under the Emergency Relief Program, in advance of incurring any costs. Pre-award authority for resiliency projects is not automatic; FTA may require a resiliency project funded from the agency's resiliency allocation be reviewed and approved by FTA, either individually or as part of a program of projects, prior to incurring costs. Since this program is new and interim final regulations were published in March 2013, recipients may not be familiar with all applicable statutory and regulatory requirements for this program, including those that might be different from other FTA grant programs. If funds are expended for an ineligible project or activity, or for an eligible activity but at an inappropriate time (e.g., prior to environmental review completion), FTA will be unable to reimburse the project sponsor and, in certain cases, the entire project may be rendered ineligible for FTA assistance.

Pre-award authority is described in the Emergency Relief Program rule at 49 CFR § 602.11. In considering the use of pre-award authority, recipients should be aware of the following:

(i) Pre-award authority is not a legal or implied commitment that the subject project will be approved for FTA assistance or that FTA will obligate Federal funds. Furthermore, it is not a legal or implied commitment that all activities undertaken by the applicant will be eligible for inclusion in the project.

(ii) Except as provided for Categories One, Two and Three in section II.D. of the February 6, 2013, Federal Register notice, or waived pursuant to the waiver process described in section J of this notice, all FTA statutory, procedural, and contractual requirements must be met.

(iii) The recipient must take no action that prejudices the legal and administrative findings that FTA must make in order to approve a project.

(iv) The Federal amount of any future FTA assistance awarded to the recipient for the project will be determined on the basis of the overall scope of activities and the prevailing statutory provisions with respect to the Federal/non-Federal match ratio at the time the funds are obligated.

(v) When FTA subsequently awards a grant for the project, the Federal Financial Report in TEAM-Web must indicate the use of pre-award authority.

D. Planning Requirements

Emergency Relief projects, excluding initial response and recovery projects under Categories 1, 2 and 3, for which FTA has issued a waiver of the planning requirements, are subject to the joint Federal Highway Administration (FHWA)-FTA planning rule (23

CFR 450.324). The joint planning rule requires that capital and non-capital surface transportation projects (or phases of projects) within the boundaries of the metropolitan planning area proposed for funding under title 23 U.S.C. and 49 U.S.C. chapter 53 be included in the Transportation Improvement Program (TIP) and Statewide Transportation Improvement Program (STIP) prior to incurring costs, unless the project qualifies as one of the exceptions listed in the rule. The planning rule at 23 CFR 450.324 provides that emergency relief projects are not required to be included in the TIP (and STIP) except for those involving substantial functional, locational, or capacity changes.

To qualify for this exception, the recipient must certify in writing that the emergency relief project does not involve substantial functional, locational or capacity changes and that the local share is available. The recipient must submit this documentation to FTA in order for the project to be eligible for federal participation. Absent such certification, FTA expects Emergency Relief projects, including resiliency projects, to be included in the TIP/STIP prior to incurring costs. Recipients may petition FTA for a waiver from this requirement by using the FTA docket process outlined in section J of this notice. FTA encourages recipients to work closely with their metropolitan planning organization (MPO) in determining whether to include emergency relief projects in the TIP, and ultimately in the STIP.

E. 24 Month Expenditure Requirement

Projects funded through the Disaster Relief Appropriations Act of 2013 are subject to section 904(c) of that Act, which requires expenditure of funds within 24 months of grant obligation, unless this requirement is subsequently waived for this program in accordance with guidance to be issued by the Office of Management and Budget. Absent a waiver,

oversight procedures will be put in place to ensure that projects are implemented in accordance with the project schedule.

F. Treatment of Insurance Proceeds

If a recipient receives or allocates insurance proceeds to a cost for which FTA either allocated or awarded Emergency Relief Program funds, the recipient will be required to amend the grant to reflect a reduced Federal amount, and will be required to reimburse FTA for any FTA payments (drawdown of funds) in excess of the new Federal amount. FTA will deobligate any excess funds from the grant. FTA will subsequently reallocate these funds through the Emergency Relief Program for other eligible Hurricane Sandy emergency relief projects.

If a recipient receives an insurance settlement that is not entirely allocable to specific losses, FTA may require the recipient to allocate a percentage of the settlement to response, recovery and resiliency projects funded by FTA in proportion to the amount of damage that is eligible for funding under the Emergency Relief Program relative to the overall damage sustained by the transit agency. FTA will publish further guidance regarding the treatment of insurance proceeds.

G. Executive Order 11988, Floodplain Management

Executive Order 11988, Floodplain Management, requires Federal agencies to avoid to the extent possible the long and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct and indirect support of floodplain development wherever there is a practicable alternative. In accordance with the Executive Order, recipients shall not use grant funds for any activity in an area delineated as a 'special flood hazard area' or equivalent, as labeled in FEMA's most

recent and current data source, unless, prior to seeking FTA funding for such action, the recipient designs or modifies its actions in order to minimize potential harm to or within the floodplain. To guide decision making, recipients shall use the ''best available information'' as identified by FEMA, which includes advisory data (such as Advisory Base Flood Elevations), preliminary and final Flood Insurance Rate Maps (FIRMs), and Flood Insurance Studies (FISs). If FEMA data is mutually determined by FTA and the recipient to be unavailable or insufficiently detailed, other Federal, State, or local data may be used as the ''best available information'' in accordance with Executive Order 11988.

For Hurricane Sandy, the Secretary of Transportation has determined that if a Federally-funded project or activity is located in a floodplain, that the ''best available information'' requires a minimum baseline standard for elevation no less than that found in FEMA's Advisory Base Flood Elevations, at the 1 percent elevation (also referred to as the 100 year flood elevation), where available, plus one foot (ABFE+1). This determination recognizes that some of the existing FIRMs were developed more than 25 years ago. Updated FIRMs are yet to be finalized and will not be available in time to provide updated information to support vital and immediate reconstruction efforts. This determination is based on FEMA's assessment that, following recent storm events including Hurricane Sandy, the base flood elevations shown on some existing FIRMs do not adequately reflect the current coastal flood hazard risk. FEMA recognizes that the ABFEs are based on sound science and engineering, and are derived from more recent data and improved study methodologies compared to existing FIRMs. To reduce the likelihood of future damage from such risks as storm surge, coastal hazards, and

projections of sea level rise, the application of an ABFE+1 standard provides a limited safeguard against the natural recurrence of flood hazards.

Thus, for projects in floodplains, when considering alternatives to avoid adverse effects and determining how to design or modify actions in order to minimize potential harm to or within the floodplain consistent with Executive Order 11988, recipients should consider that the ''best available information'' for baseline elevation is ABFE at the 1 percent elevation, or, if that is not available, FIRM, +1 foot. This standard does not necessarily mean that transit agencies will be required to move existing facilities to a higher elevation; however, in order to minimize potential harm within the floodplain in accordance with Executive Order 11988, recipients must consider the best available information (ABFE or FIRMs), including sea level rise consistent with the addition of at least one foot over the most up-to-date elevations. Particularly with respect to existing facilities where relocating them may not be feasible, examples of actions to minimize potential harm to or within the floodplain and reduce the risk of damage from future disasters may include but are not limited to updated design features or added protective features (resiliency projects). Recipients must also consider the best available data on sea-level rise, storm surge, scouring and erosion before rebuilding. Consistent with FTA's interim final rule, if State or locally-adopted code or standards require higher elevations, those higher standards would apply.

H. Use of Force Accounts

Force accounts refer to the use of a recipient's own labor force to carry out a capital project. Force account work may consist of design, construction, refurbishment, inspection, and construction management activities, if eligible for reimbursement under

the grant. Incremental labor costs from flagging protection, service diversions, or other activities directly related to the capital grant may also be defined as force account work. Force account work does not include grant or project administration activities which are otherwise direct project costs. Force account work also does not include preventive maintenance or other items under the expanded definition of capital (i.e. security drills, mobility management) which are traditionally not a capital project.

Any one of the following four conditions may warrant the use of a recipient's own labor force. These are: (1) cost savings, (2) exclusive expertise, (3) safety and efficiency of operations, and (4) union agreement. Recipients are required to maintain a force account plan for projects funded under the Emergency Relief program and the plan should be in place prior to incurring costs, unless waived by FTA pursuant to the waiver process described in section J of this notice. Recipients are not required to obtain prior FTA approval of force account plans (including justifications for the use of force accounts) for emergency response and recovery work, however, recipients are encouraged to update force account plans as needed for response and recovery projects on which force account labor will be used.

I. Eligible Sources of Local Match

The non-Federal share of Emergency Relief grants may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital. In addition, recipients may utilize the following provisions for complying with the non-Federal share requirement.

The Community Development Block Grant (CDBG) statute at 42 U.S.C. 5305(i) provides that "payment of the non-Federal share required in connection with a Federal

grant-in-aid program undertaken as part of activities assisted under [chapter 53 of title 42]" is an eligible activity. Since the CDBG statute specifically is available to fund the "non-Federal share" of other Federal grant programs, if the activity is eligible under the CDBG program, FTA will accept CDBG funds as local match.

Recipients may also utilize Transportation Development Credits (TDCs), formerly known as Toll Revenue Credits, in place of the non-Federal share. The use of TDCs must be approved by the State, which must send a letter to the FTA Regional Office certifying the availability of sufficient TDCs and approving their use prior to submitting a grant application. Recipients are advised that the use of TDCs means that no local funds will be required for projects in the grant, and that the funds allocated by FTA will not alone be sufficient to fund the entirety of the proposed Emergency Relief projects. FTA will not allocate additional Federal funds to recipients that use TDCs in place of the non-Federal share, so sufficient alternative funds will need to be located to fully finance projects utilizing TDCs. FTA will not approve a retroactive application of TDCs.

J. Waiver Process

Recipients may request waivers of FTA administrative requirements by submitting a request to www.regulations.gov, FTA docket number FTA-2013-0001, as described in the February 6, 2013 Federal Register notice, and in the Emergency Relief Program rule at 49 CFR § 602.15, however, recipients should not proceed with a project with the expectation that waivers will be provided.

II. Award Administration

A. Grant Application

Once FTA allocates Emergency Relief funds to a recipient, the recipient will be required to submit a grant application electronically via FTA's TEAM system. Prior to submitting a grant application or modification for new recovery and rebuilding projects and for resiliency projects, recipients must submit a proposed list of projects and expenses to FTA's Regional Office for review, consistent with 49 CFR § 602.17. This review will ensure that all proposed projects and costs are eligible under the Emergency Relief Program.

Distinct project identification numbers have been assigned for recovery/rebuilding projects and for resiliency projects. Recipients should work with the FTA Regional Offices to determine when, if appropriate, multiple grant applications may be required. While there is nothing that precludes the obligation of funding allocated for resiliency projects in the same grant as recovery and rebuilding projects, recipients will be required to track these costs separately and to include a separate non-add scope for costs associated with resiliency projects. This will allow FTA to track the obligation of funds for resiliency costs.

Recipients are required to maintain records, including but not limited to all invoices, contracts, time sheets, and other evidence of expenses to assist FTA in periodically validating the eligibility and completeness of a recipient's reimbursement requests under the Improper Payment Information Act.

B. Payment

Upon award, payments to recipients will be made by electronic transfer to the recipient's financial institution through FTA's Electronic Clearing House Operation (ECHO) system.

C. Grant Requirements

Emergency Relief funds may only be used for eligible purposes as defined under 49 U.S.C. 5324 and as described in the Emergency Relief Program Rule (49 CFR part 602) and the February 6, 2013, Notice of Availability of Emergency Relief Funds.

Recipients of section 5324 funds must comply with all applicable Federal requirements, including FTA's Master Agreement. Each grant for section 5324 funds will include special grant conditions, including but not limited to, application of insurance proceeds, application of any FEMA funds received, section 904(c) of the Disaster Relief Appropriations Act of 2013, Federal share, and enhanced oversight. These special conditions will be incorporated into the grant agreement for all Hurricane Sandy Emergency Relief funds.

D. Reporting Requirements

Post-award reporting requirements include a monthly submission of the Federal Financial Report and Milestone reports in TEAM consistent with FTA's grants management Circular 5010.1D, as well as any other reporting requirements FTA determines are necessary.

E. Oversight and Audits

Recipients are advised that FTA is implementing an enhanced oversight process for Disaster Relief Appropriation Act funds awarded under the Emergency Relief Program. FTA intends to undertake a risk analysis of each recipient and grant to determine the appropriate level of oversight. Within a grant or for scopes in multiple grants FTA will review projects (or scopes) over $100 million separately. Based on these assessments FTA may assign program level reviews such as procurement system reviews or financial

management oversight reviews. FTA also will review random samplings of payments to examine eligibility of costs and proper documentation. FTA will monitor the use of insurance proceeds to ensure they meet program requirements. FTA may undertake other reviews of projects, such as Technical Capacity and Capability Assessments; Risk Assessments; Cost, Schedule, and Scope Reviews; and other reviews FTA determines are necessary.

Project scopes with over $100 million in Federal funds, or those that are generally expected to exceed $100 million in Federal funds, will be declared Major Capital Projects (MCPs) and subject to the requirements of Project Management Oversight in 49 CFR 633 Project Management Oversight. However, approval of Project Management Plans will be required before funds drawdown rather than before grant award. All MCPs will be required to have a review meeting at least once every quarter. The meeting requires the participation of FTA and the project sponsor and shall include the FTA Regional Administrator or his or her designee and the project sponsor's Chief Executive Officer or designee. The objective of the meeting is for FTA and the project sponsor to discuss the overall health of the agency, the status of its project(s), address project issues and discuss potential solutions. Project scopes less than $100 million may also be declared MCPs at FTA's discretion under the criteria set forth in 49 CFR 633.5.

Construction Grant Agreements will be required for all projects over $500 million and will be considered for all projects over $100 million. These construction agreements will: (a) serve as the legal instrument by which section 5324 funds will be provided to the sponsoring recipient consistent with the Appropriations Act and the interim final rule; (b) describe the project with particularity, and set forth the mutual understandings, terms,

conditions, rights and obligations of FTA and the implementing recipient; (c) establish certain limitations on the Federal financial assistance for the project and the manner in which Federal funds will be awarded and released to the implementing recipient; (d) establish the implementing recipient's obligations to complete the project with a specified amount of Federal funds; and (e) ensure timely and efficient management of the project by the implementing recipient.

Any recipient receiving over $100 million in Disaster Relief Appropriations Act funds will be required to hire and use independent Integrity Monitors. It is FTA's expectation that such Integrity Monitors will conduct an initial review of all existing procedures and processes for susceptibility to fraud, corruption and cost abuse; recommend and assist in implementing procedures designed to mitigate all risks identified in its initial review; conduct forensic reviews of payment requisitions and supporting documentation, payments, change-orders, and review for indications of bid rigging and overcharging; provide investigative services, as necessary; conduct periodic, unannounced headcounts of workers to detect and deter the practice of no-show jobs; attend bid openings, scope reviews, and meeting with prospective contractors and vendors to ensure procurements are conducted in accordance with the recipient's rules and regulations and that a "level playing field" is being maintained for all involved; and make recommendations to tighten controls on the procurement process.

In addition, recipients should anticipate a high likelihood of additional scrutiny by the Government Accountability Office (GAO) and the Department of Transportation's Office of the Inspector General (OIG).

FEDERAL TRANSIT ADMINISTRATION						
FTA Section 5324 Emergency Relief Program						
Allocations for Hurricane Sandy, by Agency*						
State(s)	Agency	Discretionary Funding ID	Previous Allocation	Additional Recovery and Restoration	Resiliency	Total Allocations
NY	New York Metropolitan Transportation Authority	D2013-SAND-014 (recov.); D2013-SAND-015 (resil.)	$ *1,194,309,560*	$ 1,702,462,214	$ 897,848,194	$ *3,794,619,968*
NY	New York City Department of Transportation	D2013-SAND-016 (recov.); D2013-SAND-017 (resil.)	$ *33,918,813*	$ 2,834,128	$ 8,561,124	$ *45,314,065*
NY, NJ	Port Authority of New York and New Jersey	D2013-SAND-018 (recov.); D2013-SAND-019 (resil.)	$ *489,120,634*	$ 583,904,018	$ 287,391,637	$ *1,360,416,289*
NJ	New Jersey Transit Corporation	D2013-SAND-020 (recov.); D2013-SAND-021 (resil.)	$ *231,191,117*	$ 110,799,640	$ 106,199,045	$ *448,189,802*
Mult.	Other affected agencies		$ *2,456,379*	$ -	$ -	$ *2,456,379*
Mult.	Reserved for future allocation		$ *28,048,497*	$ -	$ -	$ *28,048,497*
	Grand Total		$ *1,979,045,000*	$ 2,400,000,000	$ 1,300,000,000	$ *5,679,045,000*
* Allocation amounts reflect reductions due to sequestration.						

Issued in Washington, DC, this 23rd day of May, 2013.

Peter Rogoff
Administrator