

## § 602.13

Administrator must make in order to approve a project.

(g) 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.

(h) When FTA subsequently awards a grant for the project, the Financial Status Report in FTA's electronic grants management system must indicate the use of pre-award authority.

### § 602.13 Eligible activities.

(a) An affected recipient may apply for emergency relief funds on behalf of itself as well as affected subrecipients.

(b) Eligible uses of Emergency Relief funds include:

- (1) Emergency operations;
- (2) Emergency protective measures;
- (3) Emergency repairs;
- (4) Permanent repairs;
- (5) Actual engineering and construction costs on approved projects; and
- (6) Resiliency projects.

(c) Ineligible uses of Emergency Relief funds include:

- (1) Heavy maintenance;
- (2) Project costs for which the recipient has received funding from another Federal agency;
- (3) Project costs for which the recipient has received funding through payments from insurance policies;
- (4) Projects that change the function of the original infrastructure;
- (5) Projects for which funds were obligated in an FTA grant prior to the declared emergency or major disaster;
- (6) Reimbursements for lost revenue due to service disruptions caused by an emergency or major disaster.
- (7) Project costs associated with the replacement or replenishment of damaged or lost material that are not the property of the affected recipient and not incorporated into a public transportation system such as stockpiled materials or items awaiting installation.
- (8) Other project costs FTA determines are not appropriate for the Emergency Relief Program.

## 49 CFR Ch. VI (10–1–13 Edition)

### § 602.15 Grant requirements.

(a) Funding available under the Emergency Relief program is subject to the terms and conditions FTA determines are necessary.

(b) The FTA Administrator shall determine the terms and conditions based on the circumstances of a specific emergency or major disaster for which funding is available under the Emergency Relief Program.

(1) In general, projects funded under the Emergency Relief Program shall be subject to the requirements of chapter 53 of title 49, United States Code, as well as cross-cutting requirements, including but not limited to those outlined in FTA's Master Agreement.

(2) The FTA Administrator may determine requirements associated with public transportation programs are inapplicable as necessary and appropriate for emergency repairs, permanent repairs, emergency protective measures and emergency operating expenses that are incurred within 45 days of the emergency or major disaster, or longer as determined by FTA. If the FTA Administrator determines any requirement is inapplicable, the determination shall apply to all eligible activities undertaken with funds authorized under 49 U.S.C. 5324 within the 45-day period, as well as funds authorized under 49 U.S.C. 5307 and 5311 and used for eligible emergency relief activities.

(3) FTA shall publish a notice on its Web site and in the emergency relief docket established under 49 CFR part 601 regarding the grant requirements for a particular emergency or major disaster.

(c) In the event an affected recipient or subrecipient believes an FTA requirement limits its ability to respond to the emergency or major disaster, the recipient or subrecipient may request that the requirement be waived in accordance with the emergency relief docket process as outlined in 49 CFR part 601, subpart D. Applicants should not proceed on projects assuming that requests for such waivers will be granted.

(d) In accordance with Executive Order 11988, Floodplain Management, recipients shall not use grant funds for any activity in an area delineated as a special flood hazard area or equivalent,

as labeled in the Federal Emergency Management Administration's (FEMA) 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.

(1) Except as otherwise provided in this subparagraph, recipients shall use the "best available information as identified by FEMA, which includes advisory data (such as Advisory Base Flood Elevations (ABFEs)), preliminary and final Flood Insurance Rate Maps (FIRMs), or Flood Insurance Studies (FISs).

(2) 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 "best available information" in accordance with Executive Order 11988.

(3) The final determination on "best available information" shall be used to establish such reconstruction requirements as a project's minimum elevation.

(4) Where higher minimum elevations are required by either State or locally adopted building codes or standards, the higher of the competing minimums would apply.

(5) A base flood elevation from an interim or preliminary or non-FEMA source may not be used if it is lower than the current FIRM.

#### § 602.17 Application procedures.

(a) As soon as practical after occurrence, affected recipients shall make a preliminary field survey, working cooperatively with the appropriate FTA Regional Administrator and other governmental agencies with jurisdiction over eligible public transportation systems. The preliminary field survey should be coordinated with the Federal Emergency Management Agency, if applicable, to eliminate duplication of effort. The purpose of this survey is to determine the general nature and extent of damage to eligible public transportation systems.

(1) The affected recipient shall prepare a damage assessment report. The purpose of the damage assessment report is to provide a factual basis for

the FTA Regional Administrator's finding that serious damage to one or more public transportation systems has been caused by a natural disaster over a wide area, or a catastrophic failure. As appropriate, the damage assessment report should include by political subdivision or other generally recognized administrative or geographic boundaries—

(i) The specific location, type of facility or equipment, nature and extent of damage;

(ii) The most feasible and practical method of repair or replacement;

(iii) A preliminary estimate of cost of restoration, replacement, or reconstruction for damaged systems in each jurisdiction.

(iv) Potential environmental and historic impacts;

(v) Photographs showing the kinds and extent of damage and sketch maps detailing the damaged areas;

(vi) Recommended resiliency projects to protect equipment and facilities from future emergencies or major disasters.

(2) Unless unusual circumstances prevail, the damage assessment report should be prepared within six weeks following the natural disaster or catastrophic failure.

(3) For large disasters where extensive damage to public transportation systems is readily evident, the FTA Regional Administrator may approve an application prior to submission of the damage assessment report. In these cases, the applicant shall prepare and submit to the FTA Regional Administrator an abbreviated or preliminary damage assessment report, summarizing eligible repair costs by jurisdiction, after the damage inspections have been completed.

(b) Before funds can be made available, a grant application for emergency relief funds must be made to, and approved by, the appropriate FTA Regional Administrator. The application shall include:

(1) A copy of the Governor's declaration or a Presidential declaration;

(2) A copy of the damage assessment report, as appropriate;