



Transit Facilities Checklist

If Using Federal Funds for Any Phase of Work

For Grantees in Region IV

By

FTA, Region IV

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Transit Facilities Checklist



- **Checklist** offers a potential grantee seeking Federal funds for any phase of work a *“point of departure”*
- Help Grantee research & understand the ***myriad Federal requirements for developing a facility***
- Not meant to over-simplify a complicated ***real estate, environmental review, public involvement & oversight process***

Transit Facilities Checklist



- If **transit facility** is within an urbanized area, make sure the project is in Metropolitan Planning Organization's (MPO)
 - Long Range Transportation Plan (LRTP)
 - Metropolitan & **State Transportation Improvement Programs** (MTIP & STIP)
- MTIP & STIP are ***fiscally constrained*** & inclusion of a project in the MTIP may be a matter of negotiation & ***funding priority***

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➤ If using **FTA funds** for:

- Preliminary Engineering, site selection, land acquisition, site improvements or construction please include phase of work & funding amount (approx) in the MTIP & STIP
- FTA looks to **STIP documentation** as part of app. process
- **STIP program pages & approval dates** are required in TEAM & must be entered in TEAM (not the MTIP documentation)

➤ RE **Air Quality**:

- If within an air quality **non-attainment or maintenance area** please note Clean Air Act compliance provisions under FTA Circular C 9300.1 a 10-01-98
- MPO's LRTP will need to be in compliance with the Statewide Implementation Plan (SIP) & relevant motor vehicle emissions budgets (approved by EPA).

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- **Project Feasibility**
- Identify **demand for & the feasibility of a Transit Facility** to support the funding request & site selection
- Consider/complete **detailed scope of work &/or a study** to determine potential sites & the feasibility of sites
- If you procure consultant services for study &/or environmental reviews, make sure you:
 - **advertise & take competitive proposals**
 - **fair & open procurement**
 - **document the “how/why”** of selection
- If an **EA or EIS** is being sought, can the consultant
 - **Document number & types of NEPA projects completed**
 - **Persons who worked on NEPA projects, &**
 - **Satisfactory award & Records of Decision (ROD) from FTA**
- Additional services may be likely as a result of reviews & public input & should be anticipated in budget

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- Greensboro NC MM Transit & AMTRAK Facility
- Greensboro Transit Authority (GTA)
- Fixed Route
- HEAT service

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➤ Site Issues & Zoning

- Determine proposed uses & develop a site plan & building facility layout
- Determine if parking, access & circulation are adequate per setbacks in local ordinances
- Evaluate **access, floodplain, drainage, sewer & retention issues, topography & grading issues, facility linkages & economic factors such as likely fair market value (FMV) & eventual public ownership**
- Identify local **comprehensive plan, land use & zoning** & will site need to be re-zoned?
- Has re-zoning been completed prior to NEPA documentation?

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- Please document **public involvement** in the process of site selection. Make sure there is a level of public involvement consistent with **Participation Plan** of cognizant MPO
 - Public involvement meetings during course of study should be considered/encouraged
 - Grantees may want to advertise/hold mtgs. at MPO level
- For example, is the **public generally supportive** of the use & proposed location or is there a lot of opposition?
- Can you **document** comments via comment cards?

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- ***Construction Management Handbook***
- Please see the web link below for the ***construction management handbook***:
- http://www.fta.dot.gov/documents/Construct_Proj_Mangmnt_CD.pdf

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- ***Environmental Documentation***
- ***FTA planning dollars from 5303 & 5307 programs*** may be used to fund the provision of NEPA documentation (NOTE: if done, please reference in the Unified Planning Work Program (UPWP) of relevant MPO)
- To apply for capital dollars under 5307 or 5309 programs:
 - NEPA documentation (also see Categorical Exclusion as indicated in 23 C.F.R. 771.117, below) needs to have been submitted to FTA
 - ***Prior to making a grant application in TEAM*** for a capital expenditure
- The purposes of developing the environmental document include:
 - ***1) protect the natural & social environment;***
 - ***2) to lead a lay reader through NEPA process so...one can reasonably be expected to understand the logic of this evolutionary process which may have led to the recommended alternative/solution; &***
 - ***3) to protect the federal & local agency using public funds.***

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- **Contemplating the NEPA document...**
- Primary reason for NEPA is to arrive at **“good decisions by the parties”**
- Taking “shortcuts”, **dismissing possible alternatives** without examination & making “simplistic or wrongful assumptions” might result in a flawed environmental document
 - Such flaws can result in re-dos & legal delays & other consequences
 - In anticipating/completing the document please determine the:
 - **type, scope & scale of the facility &**
 - **its level of potential adverse risk &**
 - **develop a detailed scope of work for needed level of environ. review**
- Please consider **the class of action**, emphasizing the:
 - **level of potential adverse impact**
 - **degree of certainty with respect to potential adverse impact**
 - **assessment of local accord/discord w/action which makes up potential risk**

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- A brief synopsis of **3 types of environmental reviews or “classes of action”** are as follows:
 - **Categorical Exclusion (23 C.F.R. 771.117):**
Categorical Exclusions (CE's) are granted for actions that **do not** individually or cumulatively involve significant social, economic or environmental impacts
 - Projects listed in 23 C.F.R. 771.117 may involve little or no construction & **minimal or no effects off-site**
 - The regulation gives a **list of types of projects** that are categorically excluded
 - Once FTA has determined that a CE applies, it may act on the **application for financial assistance**

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- **Environmental Assessment (23 C.F.R. 771.119):**
FTA may require an Environmental Assessment (EA) when significance of the environmental impact is not clearly established.
- An EA can result in either a:
 - **Finding of No Significant Impact (23 C.F.R. 771.121)** (FONSI) requiring no further environmental evaluation, or
 - identification of **potentially significant impacts** requiring applicant to conduct Environmental Impact Statement (EIS).

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- **Environmental Impact Statement (23 C.F.R. 771.123 et. seq.):** Depending on nature of the project, FTA may immediately require applicants to develop an Environmental Impact Statement (EIS) based on outcome of an EA
- The EIS requires a **substantial technical analysis & public review process be conducted to evaluate project alternatives**, identify potential social, economic & environmental impacts of project & designate ways to avoid/mitigate impacts
- **Successful completion of an EIS results in FTA signing a Record of Decision (ROD)**
- Once FTA has signed a ROD, the applicant can proceed with the project having completed NEPA & FTA may act on the **application for Federal assistance**

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- Please note that neither the physical magnitude nor the cost of the project alone are indicators of what the class of action should be
- It is the **degree of adverse impact & environmental risk** that points to class of action
- The size &/or the cost of the project **do not** by themselves determine the class of action

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- Consider the **alternatives & their relative environmental impacts**
- For example, transfer & storage facilities & bus & maintenance facilities are **Categorical Exclusions** with:
 - written documentation provided by grantee for actions that do not individually or cumulatively involve significant social, economic or environmental impacts; & projects listed in 23 C.F.R. 771.117, including:
 - **new bus storage & maintenance facilities,**
 - **rehab or reconstruction of bus storage & maintenance facilities,**
 - **bus transfer facilities & rail storage facilities, &**
 - **“Hardship” (to the seller) I& acquisition, among others**
 - **NOTE: Transit terminal may not be exempt by CE due to impacts!**

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- The presence of “**unknown impacts**” from development & construction for example, may result in requirement that the grantee produce a **documented CE report**
- **Written documentation** beyond that provided by the checklist
- Generally true in case of a land or property assembly where a **phase one or two environmental site assessment** (as differentiated from a NEPA Environmental Assessment) may be required to determine **likelihood of contamination**
 - Phase One: Good practice, needs to be done to determine likelihood of contamination
 - Phase Two: If likelihood of contamination, do borings and wells
 - Phase Three: Remediation and clean-up
- As a general rule, FTA **does not provide funds to remove contamination**
- Contamination may need to be removed with local or state funds
- **Exception: “Brownfield” clean-up per EPA**

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- Review the **appropriate environmental requirements** in various circulars on the FTA web site
- For example, please see FTA Circular C 9300.1 A 10-01-98 from the FTA Capital Projects circular

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- Special Studies, EIS:
- Presence of one or more conditions may require **special studies & documentation** of impacts re:
 - archaeological, cultural, ecological, historical, parks & water
 - may further indicate the need for an EIS.
- **NOTE: See National Historic Preservation Act, Section 106 & the Federal Transit Act, Section 4 (f)** for additional information with regard to properties **eligible for or on the National Register**
 - In some cases properties **50 years old or older**
 - **projects which impact parkland & may need special surveys/studies**

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- NEPA document is a **Federal document**:
 - *While local sponsor (grantee) may recommend an alternative as the locally preferred alternative (LPA), the **Federal agency is the ultimate decision maker** of the alternative's appropriateness for funding*
 - *Federal agency may require **a range of alternatives to be considered***

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- **Intermodal Transportation Facility: Level Boarding**
- **Level-boarding compatibility issues** must be examined where AMTRAK & commuter rail trains may use same platform/facility
- AMTRAK & other trains may have different platform & doorway heights & “low floor” measures of doorways
 - 17.5, 22 or 48 inches on older trains may provide challenges
 - Grantees may contact Civil Rights Officer in Region IV re level boarding
- The **Disability Law Coordinating Council** has written guidance on level boarding & platform issues on the FTA web site:
- http://www.fta.dot.gov/civilrights/ada/civil_rights_3890.html

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- *If an intermodal facility is proposed along an existing rail freight line or a proposed high speed rail corridor (Atlanta to Richmond) than:*
 - Reviews by Federal Railway Administration (FRA) required
 - Ensure freight & passenger routes (& potential conflicts) reviewed

- *The FRA contact is Dick Cogswell at 202.493.6388.*

- Older systems may find **fleet replacement & level boarding** issues. If existing heavy rail line is extended level boarding is critical

- “Gap” Issue should be considered re ADA and curvature of track:
 - Example: transit facilities built within curve may result in a “gap” in excess of that allowed or which can be bridged between platform & doorway of train
 - **Prospective stations have been moved due to “gap” issue.**
 - **Care should be taken to consider station location in light of both platform/doorway “gaps”, and level boarding & freight queues**

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- ***PM 2.5 Particulate Matter—Non-Attainment Areas***
- ***Possible Conformity Determination***
- If proposed transit facility is located within a non-attainment area for particulate matter (PM-2.5), the applicant:
 - may need to address a ***project conformity determination for PM-2.5 from diesel exhaust***. According to 40 C.F.R. 93.123(b)(1)(iv), FTA & EPA may become involved via “interagency coordination” with applicant
 - Projects of air quality concern with “significant increase” in diesel buses at transit transfer facilities may result in a “CO hot-spot”
 - ***However***, if transit project receives ***CE determination*** by FTA conformity determination ***may not be required...***

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➤ Region IV PM 2.5 NA Areas:

- Atlanta, Birmingham, Chattanooga, Cincinnati-Hamilton, Greensboro, Winston-Salem, High Point, Hickory, Huntington-Ashland &, Knoxville, Louisville, Macon or Rome
- Facilities in these areas **which will require an EA or EIS may require PM 2.5 conformity determination** if they will attract a significant # of diesel vehicles

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➤ ***Real Estate***

- Consider the following real estate property acquisition & relocation guidance from FTA web sites & links:
 - 49 C.F.R Part 24, see below for **Uniform Relocation Act & Real Estate requirements for Fed. Government aka “Uniform Act”**
 - http://www.fta.dot.gov/planning/planning_environment_5937.html
 - Please review section 1.3.3.4 - Real Estate Contracts of the FTA, Best Practices Procurement Manual (BPPM) that deals with the acquisition of Real Property (grantees are urged to obtain & review the BPPM):
 - http://www.fta.dot.gov/funding/thirdpartyprocurement/bppm/grants_financing_6102.html

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- See FTA web site & type in **Circular name/number** in “Search” box:
 - a. **FTA Circular 5010.1C, Grant Management Guidelines, Chapter II-2 Real Property.** This Circular defines the requirements of the Federal Transit Laws that are codified at 49 U.S.C. Chapter 53.
 - b. **49 CFR §18.31 Real Property, & 49 CFR Part 24, Subpart B Real Property Acquisition.**
 - c. **FTA Master Agreement (MA (12) Section 19.**
 - Acquisition of real property, either by purchase or lease, is not subject to the requirements of FTA Circular 4220.1E. Real property is defined in 49 CFR Section 18.3 as “land, including land & improvements, structures & appurtenances, excluding movable machinery & equipment”
 - Acquisition of easements & ROW are considered real estate acquisitions & requirements discussed herein pertain to these types of acquisitions
 - Real property acquisition, use & disposal is covered by FTA Circular 5010.1C, Chapter II-2; 49 CFR Part 18.31; 49 CFR Part 24 Subpart B; & by the FTA Master Agreement, Section 19.1

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- **Circular 5010.1C, Chapter II-2.** Circular establishes procedures to be followed in the following areas:
 - The conduct of **Hazardous Waste Site Assessments before** acquiring real property
 - The conduct of an **independent appraisal** by a certified appraiser
 - The requirement for a **review appraisal** of the initial appraisal
 - FTA **review & concurrence requirements** related to grantee's offer to buy property
 - **Incidental use of acquired real property** as a means to supplement transit revenues
 - **Disposition of excess real property** by sale/transfer to other programs
 - Requirement to prepare excess property utilization plan for real property no longer used for its original purpose.

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- Appraisals & review appraisals (“hard copy”) completed by appraiser required **prior to preparing an application** for funds in TEAM (properties with a value of \$ 250,000 * or greater) for facility:
 - Have “hard-copy” appraisals & a summary cover letter from the applicant/grantee) sent to FTA Region IV
 - FTA headquarters (HQ) review & FTA HQ will provide a review memo for sufficiency of documentation to Region IV
 - Region IV will notify applicant/grantee of results
 - Value determination is not FTA’s responsibility
 - Approval does not constitute FTA’s agreeing with value, only sufficiency
 - FTA R IV will **not be able to process a grant request** in TEAM for acquisition unless ‘hard-copy” appraisals reviewed & approved (HQ)
 - Appraisals should be dated within six months of proposed purchase
 - Values do change...update appraisals if over 6 mos. old

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- Other real estate issues to address in **Project Detail narrative in TEAM**, as follows:
 - Is facility ***zoned for transit facility use?***
 - Example: Industrial zoning for bus maint. facility
 - Who will own the facility?
 - Will there be non-transit related retail or other tenants in facility?
 - If yes, will they pay rent & what will be the disposition of rents?
 - Will parking be provided, & if so will it be adequate for bus & automobile circulation?
 - **NOTE: the facility must be ADA accessible with curbs, ramps & other ADA improvements**

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- *Purchase of Real Estate & “Earmark Funds”*
- Because of the **NEPA, appraisal and “Uniform Act” requirements**, the purchase of property with earmark funds by a grantee that has **not completed** the numerous Federal actions is **discouraged**
- Grantees who try to purchase property with earmarks without completing **NEPA, appraisal and Uniform Act** documents will find challenges completing in sequence
- Grantees may be **risking a lapsing earmark**
- ...or the **possible future use of Federal funds!**

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- ***Early Acquisition of Real Estate is “At-Risk”***
- Grantees should understand that ***“early acquisition” of property is “at risk”*** to the grantee
- Failure to complete **NEPA, appraisal & Uniform Act** requirements will jeopardize use of Fed. funds on project
- Good “rule of thumb”: ***If project is in TIP then probably Fed. funds will be sought***
- **Respect** NEPA, appraisal & Uniform Act requirements

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- ***Uniform Relocation Assistance & Real Property Acquisition Act aka “Uniform Act”***
- ***See Uniform Relocation Assistance & Real Property Acquisition Policies Act of 1970***, as amended, may be viewed at: <http://www.fhwa.dot.gov/realestate/act.htm>
- Implementing regulations (government-wide) are found in 49 CFR Part 24
<http://a257.g.akamaitech.net/7/257/2422/01jan20051800/edocket.access.gpo.gov/2005/05-6.htm>

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- ***Use of Land as In-Kind Match for Fed. Funds***
- See Circulars/Rules as follows:
- **Common Grant Rule at 49 CFR 18.24 "Matching or Cost Sharing" (2) FTA's administration of authority is in FTA C5010.1C, "Grant Management Guidelines," Chapter II, "Management of Real Property, Equipment & Supplies"**
- Also see 42 U.S.C. 61, Section 4627
<http://www4.law.cornell.edu/uscode/42/4627.html>
- **Value is value at time of donation...**

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- **Davis-Bacon Wage Rates & Buy America**
- Grantees should be aware of Labor Dept. wage determination & certification process
 - ...aka **Davis-Bacon Act for CST projects**
- Project facility budgets & schedules need to **anticipate Davis-Bacon wage rates & labor reviews**
- **Applications in TEAM are also routinely sent to DOL for employee rights & union review issues**
- Grantees should also be made aware of **Buy America provisions** when purchasing materials & equipment
- Buy America is a requirement under 5307 & 5309...

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- **CE Information “Checklist” to be submitted for CE requests to FTA is attached to written Transit Facility Checklist**
- **NOTE: Circulars are in process of being updated & will change from time to time.**

Transit Facilities Checklist



- For additional Information contact FTA Region IV, at 404.865.5600
 - Keith Melton, at 404.865.5614 or keith.melton@dot.gov
 - **THANKS...**