

DEFICIENCY CODE F7-1: Recipient lacks financial capacity to carry out program

SUGGESTED CORRECTIVE ACTION 1: The recipient must submit a plan for reducing expenditures, increasing revenues, or a combination of both to compensate for a budget shortfall.

SUGGESTED CORRECTIVE ACTION 2: The recipient must submit a plan for responding to a change in financial circumstances caused by a “sunset” provision in current local funding legislation or pending legislation that will affect local funding negatively.

SUGGESTED CORRECTIVE ACTION 3: The recipient must submit a new or revised multi-year financial plan if the recipient fails to demonstrate financial capacity.

The recipient is deficient if it cannot document that the funds used for local match are eligible.

DEFICIENCY CODE F7-2: Ineligible local match

SUGGESTED CORRECTIVE ACTION: The recipient must submit documentation that the funds it uses for local match are eligible. If ineligible funds have been used as local match, work with the FTA regional office to develop a corrective action.

GOVERNING DIRECTIVE

49 U.S.C. 5307(d)(1)(a) Grant Recipient Requirements

A recipient may receive a grant in a fiscal year only if...has or will have the legal, financial, and technical capacity to carry out the program, including safety and security aspects of the program.

FTA Circular 5010.1E, Chapter VI, Section 4 Financial Plan

Upon request from FTA, the recipient agrees to provide a financial plan delineating the source of non-Federal share, the amounts applicable to the different sources, and the time frame for acquisition of the non-Federal share. Recipients must have multi-year financial plans (3–5 years) for operating and capital revenues and expenses to implement FTA Awards. The financial plans should indicate adequate revenues to maintain and operate the existing system and to complete the annual program of projects (POP).

2 CFR Part 200.306 Cost sharing or matching

(b) For all Federal awards, the Federal agency or pass-through entity must accept any cost sharing funds (including cash and third-party in-kind contributions, and also including funds committed by the recipient, subrecipient, or third parties) as part of the recipient's or subrecipient's contributions to a program when the funds:

- (1) Are verifiable from the recipient's or subrecipients records;
- (2) Are not included as contributions for any other Federal award;
- (3) Are necessary and reasonable for achieving the objectives of the Federal award;
- (4) Are allowable under subpart E of this part;
- (5) Are not paid by the Federal Government under another Federal award, except where the program's Federal authorizing statute specifically provides that Federal funds made available for the program can be applied to 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.

F8. For recipients receiving operating assistance, is the amount eligible for operating assistance calculated in compliance with FTA guidance?

BASIC REQUIREMENT

Operating assistance may not cover more than half the recipient's eligible operating expenses net of farebox revenues.

APPLICABILITY

Recipients of FTA operating assistance that provide service

DETAILED EXPLANATION FOR REVIEWER

It is the responsibility of the recipient to calculate net eligible operating costs properly. The amount of funds requested for operating assistance must be no more than half the operating expenses, after fare revenues are credited and ineligible costs (such as costs for charter bus, school bus, sightseeing service and lobbying activities) are deducted to arrive at the net project cost. Interest and other financial costs associated with borrowing to provide working capital for the payment of current operating expenses are eligible operating costs. FTA Circular 9030.1E, Appendix C provides a worksheet for calculating eligible operating expenses.

Recipients may also use FTA funding at the 80/20 match level for ADA paratransit, preventive maintenance, and capital cost of contracting. These funds could increase the total amount of FTA funds the recipient could be eligible to request but would reduce the net project cost eligible for 50/50 operating assistance.

The FTA share of any operating assistance project shall not exceed the lesser of: a) the local match, b) the currently available apportionment to the urbanized area plus any carryover funds available from past years, or c) 50 percent of the net project cost incurred on an accrual basis in the provision of transit services during the period. The remainder must be paid with the recipient's local share.

FLEXIBILITIES AND ADMINISTRATIVE RELIEF

Coronavirus Aid, Relief, and Economic Security (CARES) Act – These funds provide for 100 percent reimbursement for operating, planning, and capital expenses incurred beginning on January 20, 2020, that are normally eligible under the Sections 5307 and 5311 programs. There is no expiration date for the use of these funds.

FTA generally will consider all expenses normally eligible under the Section 5307 and 5311 programs that are incurred on or after January 20, 2020, to be in response to economic or other conditions caused by COVID-19 and thus eligible under these supplemental funding sources, as applicable.

In addition, all operating expenses (after subtracting fare revenues) are eligible under the Sections 5307 and 5311 programs for all recipients, including the following:

- Provision of transit service, such as driver and other operations worker salaries, fuel, and supplies (including personal protective equipment and cleaning supplies).
- Administrative leave for operations employees (including employees performing maintenance). Administrative leave is an administratively authorized absence from duty without loss of pay or

reduction in an employee's available leave. In the context of the COVID-19 public health emergency, administrative leave could include, but is not limited to, leave for an employee who is not required to work due to a reduction in service or leave for a worker who is quarantined after potential exposure to an individual infected with COVID-19.

- Services provided under existing operations and maintenance service contracts awarded prior to January 20, 2020, even if the contract was not procured following Federal requirements.
- Operating costs of essential delivery services, including meal delivery, through January 20, 2022.
- Non-refundable costs incurred for events, travel, or other activities approved in an FTA award that were cancelled due to COVID-19 public health emergency.

Coronavirus Response and the Relief Supplemental Appropriations Act of 2021 (CRRSAA) –

CRRSAA and unobligated CARES Act funding should be directed to the maximum extent possible to payroll and operations of public transit – including payroll and expenses of private providers of public transportation – unless the recipient certifies to FTA that the recipient has not furloughed any employees. Expenses may include capital expenses such as vehicle procurements or facility construction. Operating expenses permitted under previously apportioned Section 5310 (Enhanced Mobility for Seniors & Individuals with Disabilities Formula) Program may be awarded at 100 percent federal share. Operating expenses (after subtracting fare revenues) for all recipients, including large urban areas, are eligible to be funded at 100 percent federal share beginning January 20, 2020, including:

- Administrative leave for operations employees due to reductions in service or leave for a worker who is quarantined after potential exposure to an individual infected with COVID-19
- Vehicle operator salaries
- Fuel
- Items with useful life of less than one year

CRRSAA funds are available until expended. There is no lapse date on these funds. However, recipients are encouraged to use funds expeditiously for operating and payroll expenses.

American Rescue Plan (ARP) Act – ARP funds are available at 100 percent funding for payroll and operating expenses beginning January 20, 2020 (including payroll and expenses of private providers of public transportation). Funds cannot be used for other expenses unless the recipient certifies to FTA that the recipient has not furloughed any employees since March 27, 2020. Eligible expenses include:

- Payroll for public transit providers, including private providers of public transportation.
- Operating costs of public transit during the public health emergency, including the purchase of personal protective equipment, cleaning, and public transportation to vaccination sites.
- Administrative leave for operations or contractor personnel due to reductions in service.
- Operational costs of providing essential services through the incidental use of transit assets. Examples include providing the community with safety and security or access to food, water, shelter, social services/medical care, and communications infrastructure.

ARP funds must be obligated by September 30, 2024 and disbursed by September 30, 2029.

Ineligible expenses: For all of the funding programs listed above, any expenses that are also funded/reimbursed through another Federal source, such as the Federal Emergency Management Agency (FEMA) are ineligible for reimbursement by FTA.

Emergency Relief (ER) Program – Under the authority of U.S.C. Section 5324 Emergency Relief Program, FTA announced that all recipients in large urban, small urban, and rural areas that operate in states that have declared a State of Emergency related to the COVID-19 public health emergency may use their Section 5307 and 5311 funding for both capital and operating expenses related to COVID-19 response at a 100 percent Federal share. Examples of such expenses include, but are not limited to:

- Removal of health and safety hazards, such as cleaning of vehicles and facilities
- Costs associated with shutting down and/or restarting service
- Materials like hand sanitizer, gloves, soap, and cleaners
- Emergency protective gear relevant to the emergency
- Temporary service, that is not part of regular service, provided in response to the emergency
- Administrative leave
- Essential delivery services, such as meal delivery, through January 20, 2022
- Charter service allowance for up to 45 days from the beginning of each state of emergency incident period

Ineligible expenses under the ER program would include operating expenses not related to the COVID-19 public health emergency (e.g., routes that existed prior to January 20, 2020, or new routes not specific to the COVID-19 public health emergency).

INDICATORS OF COMPLIANCE

- a. *How does the recipient calculate net operating/project costs?*
- b. *Do amounts for which reimbursement is sought exclude ineligible costs?*

INSTRUCTIONS FOR REVIEWER

Review the recipient's operating expenses included in their operating budget for the past three years as depicted in the budget, Single Audit reports, and other available financial documents. Review ECHO requests to re-calculate the requested amounts using FTA Circular 9030.1E, Appendix C, Operating Calculation Worksheet. Ensure ineligible costs, such as ADA complementary paratransit operating costs, are correctly omitted from the reimbursable amounts if the recipient uses capital funds for ADA complementary paratransit service operations or if the recipient is ineligible for operating assistance. Discuss onsite, the recipient's process for calculating net operating costs.

See ECHO Transaction Sampling Procedures at the end of this review area for additional instructions for the reviewer in regards to substantiating the calculation of eligible operating costs.

POTENTIAL DEFICIENCY DETERMINATION

The recipient is deficient if it's requested funds for operating assistance are more than half the operating expenses after fare revenues are credited and ineligible costs are deducted to arrive at the net project cost.

DEFICIENCY CODE F8-1: Ineligible operating expense calculation

SUGGESTED CORRECTIVE ACTION 1: The recipient must submit procedures for properly calculating net eligible project costs for operating assistance.

SUGGESTED CORRECTIVE ACTION 2: If the recipient has received operating funds in excess of allowable amounts, work with the FTA regional office and regional counsel to determine the appropriate corrective action.

DEFICIENCY CODE F8-2: Lack of furlough certification

SUGGESTED CORRECTIVE ACTION: The recipient must submit evidence that it did not furlough any employees while using supplemental funding for non-operating expenses.

GOVERNING DIRECTIVE

FTA Circular 9030.1E, Ch. IV, Section 4. Operating Assistance

FTA provides funding to eligible recipients for costs incurred in the operation of public transportation service. In general, operating expenses are those costs necessary to operate, maintain, and manage a public transportation system. Operating expenses usually include such costs as driver salaries, fuel, and items having a useful life of less than one year.

FTA Circular 9030.1E, Ch. III, Section 8c. Use of Program Income as Local Share

...In a grant application requesting operating assistance, the applicant must deduct farebox revenues from operating costs to arrive at the net project cost of an operating assistance project. See Appendix C, "Operating Assistance Projects," of this circular for assistance in calculating the net project cost of a grant requesting operating assistance...

FTA Circular 9040.1G, Ch. III, Section 4; FTA C. 9070.1G, Ch. III, Section 16 Operating Expenses

The Federal share of the eligible operating costs may not exceed 50 percent of the net operating costs of the activity.

FTA Circular 9045.1, Ch. III, Section 12; FTA C. 9050.1, Ch. III, Section 12 Federal and Local Matching Requirements

The Federal share of the eligible operating costs may not exceed 50 percent of the net operating costs of the activity. Recipients may use up to 10 percent of their apportionment to support program administrative costs including administration, planning, and technical assistance, which may be funded at 100 percent Federal share.

NOTE TO REVIEWER: The below frequently asked questions excerpt are not all inclusive. A listing of all questions used to inform the changes in this section is listed after the narrative.

FTA Frequently Asked Questions from FTA Grantees Regarding Coronavirus Disease 2019 (COVID-19), CA1

The CARES Act and CRRSAA provide funds to prevent, prepare for, and respond to COVID-19; both the CARES Act and CRRSAA provide funds for expenses eligible under Sections 5307 and 5311, but only CRRSAA provides funds for expenses eligible under Section 5310. FTA generally will consider all expenses normally eligible under the Section 5307, 5310 and 5311 programs that are incurred on or after January 20, 2020 to be in response to economic or other conditions caused by COVID-19 and thus eligible under the CARES Act and CRRSAA, as applicable.

The CRRSAA requires that all CARES Act funds that remain unobligated as of December 27, 2020, as well as all CRRSAA funds shall, to the maximum extent possible, be directed to payroll and operations of public transit (including payroll and expenses of private providers of public transportation), unless the recipient certifies to FTA that the recipient has not furloughed any employees. Recipients are responsible for ensuring that payments of CARES Act and CRRSAA funds to subrecipients are consistent with this requirement. See also CA32 regarding private provider subrecipients. CARES Act and CRRSAA funds are available for operating expenses for all FTA Section 5307, 5310 and 5311 recipients, including those in large urban areas, and including administrative leave for transit workers.

FTA Frequently Asked Questions from FTA Grantees Regarding Coronavirus Disease 2019 (COVID-19), CA2

Funds available under the CARES Act, CRRSAA, and ARP are available for all operating activities (net fare revenues) that occur on or after January 20, 2020. All three Acts provide funds for eligible expenses under Sections 5307 and 5311, but only CRRSAA and ARP provide funds for eligible expenses under Section 5310.

In general, operating expenses are those costs necessary to operate, maintain, and manage a public transportation system. Operating expenses usually include such costs as driver salaries, fuel, and items having a useful life of less than one year, including personal protective equipment and cleaning supplies. Preventive maintenance is considered an operating expense for the purposes of CARES Act, CRRSAA, and ARP reimbursement. See Chapter IV of the Urbanized Area Formula Program circular, Chapter III of the Enhanced Mobility of Seniors and Individuals with Disabilities Program circular or Chapter III of the Formula Grants for Rural Areas circular for more information on eligible operating expenses.

CARES Act, CRRSAA, and ARP funding can be used for administrative leave, such as leave for employees due to reductions in service, leave required for a quarantined worker, or and leave for an employee to receive the COVID-19 vaccine, including reasonable time for the employee to recover from potential side effects.

FTA Frequently Asked Questions from FTA Grantees Regarding Coronavirus Disease 2019 (COVID-19), ER1

Capital and operating activities undertaken in response to COVID-19 are eligible for reimbursement under the Urbanized Area Formula Program (49 U.S.C. 5307) and Formula Grants for Rural Areas Program (49 U.S.C. 5311). FTA Acting Administrator K. Jane Williams has issued a Notice of Concurrence with declarations of emergency issued by Governors that relate to COVID-19. Accordingly, for recipients in states in which the Governor has declared such an emergency (49 U.S.C. 5324), FTA will permit Urbanized Area Formula Program or Formula Grants for Rural Areas Program funding, including such funding appropriated in the Consolidated Appropriations Act, 2021, to be used for COVID-19-related public transportation capital or operating expenses at an 100-percent federal share, regardless of whether operating expenses generally are an eligible expense for a recipient.

Pursuant to FTA's Emergency Relief rule at 49 CFR part 602, eligible activities include emergency protective measures to eliminate or lessen threats to public health and safety, such as performing enhanced cleaning/sanitizing of rolling stock, stations, bus shelters, etc.; placing hand sanitizer dispensers in high-traffic areas; and providing personal protective equipment as appropriate.

FTA Frequently Asked Questions from FTA Grantees Regarding Coronavirus Disease 2019 (COVID-19), ER2

FTA grantees may use their Urbanized Area Formula Grants (Section 5307) and Formula Grants for Rural Areas (Section 5311) funds to take protective measures to protect health and safety, such as cleaning of rolling stock, which is considered preventive maintenance (a capital expense) and is eligible for an 100-percent federal match. Personal protective equipment (PPE) and other measures are eligible as either a maintenance or operating expense, whichever is appropriate.

FTA COVID-19 FAQs related to this requirement/flexibility include, but are not limited to the following: CA1, CA2, CA5, CA6, CA13, CA17, CA20, CA26, CA27, ER1, ER2, ER3, ER4, ER5, ER7, ER12, CE1, CE2, CE4, CE5, CE6, CE13, CE14, and CE16

F9. Does the recipient adequately ensure financial management systems oversight of its subrecipients?

BASIC REQUIREMENT

The recipient is responsible for ensuring that subrecipients have financial management systems that meet standards for financial reporting, accounting records, internal control, budget control, allowable cost, source documentation, and cash management; comply with requirements regarding the use of indirect cost when reimbursement is sought from a Federal award program; and complete annual independent Single Audits if the subrecipients expended \$750,000 or more in Federal awards in a year.

APPLICABILITY

Recipients with subrecipients

DETAILED EXPLANATION FOR REVIEWER

Annually, the recipient certifies to FTA (as part of the annual certifications and assurance process) that it and its subrecipients have the financial capacity to carry out its proposed program of projects. Some recipients provide financial assistance to support public transit services of its subrecipients. This financial assistance may provide some or all of the non-Federal match. The sources of funding may differ for capital and operating assistance programs. FTA does not require a dedicated funding source. See discussion under *Detailed Explanation For Reviewer* at question F7 for eligible local match.

The recipient is responsible for ensuring that subrecipients have financial management systems that meet standards for financial reporting, accounting records, internal control, budget control, allowable cost, source documentation, and cash management. The recipient is not required to monitor the financial management systems of subrecipients that do not receive Federal cash (e.g., subrecipients for which the recipients procures vehicles). Some recipients require applicants, especially first-time applicants, to describe their accounting systems or may perform a pre-award review of accounting systems. Other recipients require subrecipients to maintain separate accounting records for projects. In addition to financial and Single Audits, some recipients require subrecipients to have their auditors certify year-end financial statements or perform a program audit of their transit operations.

The recipient is required to ensure that subrecipients can trace funds to a level of expenditures adequate to establish, that the funds are used for eligible expenditures under the program. Common practices among pass-through entities include but are not limited to:

- Reviewing Single Audits
- Requiring subrecipients to submit supporting documentation periodically
- Requiring new and high-risk recipients to submit supporting documentation with every reimbursement request

INDICATORS OF COMPLIANCE

- a. How does the recipient ensure that its subrecipients have sufficient financial resources to provide local share for projects and to adequately maintain and operate FTA-funded assets?*
- b. How does the recipient ensure that subrecipients match funds are eligible?*
- c. How does the recipient ensure that its subrecipients have sufficient financial controls in place?*
- d. How does the recipient ensure that subrecipients comply with Federal indirect cost rate requirements?*
- e. How does the recipient ensure that Single Audits of subrecipients are conducted and FTA program related findings resolved?*
- f. How does the recipient ensure that subrecipients seek reimbursement for eligible expenditures, including, but not limited to, calculating the amount eligible for operating assistance in compliance with FTA guidance?*

INSTRUCTIONS FOR REVIEWER

Review award applications and their Program of Projects and MPRs in TrAMS to identify:

- Whether the recipient has subrecipients and the type of subrecipients
- The types of projects implemented by subrecipients, amount of funding received, and charges reimbursed from the award, i.e. operating, capital, administrative, etc.

Review the financial capacity, financial management, and awards management subsections of the OAT in OTrak to verify whether FTA has concerns regarding:

- The recipient's financial oversight of subrecipients
- Subrecipient's Single Audit results, corrective action plan status and/or resolution

For each fiscal year, review the Report of Independent Auditors on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards and Report on Internal Control Over Compliance sections of the recipient's and/or subrecipient's Single Audit report to verify no material misstatements and/or significant deficiencies were reported relating to:

- Recipient's oversight of its subrecipients
- Subrecipient's financial controls

- Subrecipient's indirect cost rate allocations
- Subrecipient's unresolved findings

Review the recipient's application process to determine if subrecipient's financial resources and capabilities are assessed.

Review the financial policies and procedures, state/program management plans and/or oversight procedures to determine:

- The recipient's process to confirm evidence of financial control of subrecipients
- How the recipient confirms that subrecipients comply with the Federal indirect cost rate and Single Audit requirements
- The frequency of submittals from subrecipients and assessment of compliance (i.e., oversight is performed quarterly, bi-annual/annually etc.)

Review the recipient's subrecipient invoice process to determine if it ensures that subrecipients calculate operating assistance and/or project administration correctly and that amounts submitted for the reimbursement are supported.

Review the recipient's oversight tools (checklists, reports, etc.) to verify implementation of its oversight process (desk review reports, site visits conducted, etc.) and whether the process addressed the subrecipient's:

- Financial controls over award records, assets, and personnel
- Fiscal capabilities

For subrecipients selected for a site visit:

- Review the subrecipient application and oversight program to verify the recipient assessed the financial resources and capabilities of the subrecipient.
- Determine whether documents were reviewed/obtained from subrecipients to:
 - Establish that the correct indirect cost rates are used for eligible expenditures under the program. Documents may include the subrecipient's CAP or approval letter from its cognizant agency of its indirect cost rate; results of sampled invoices reviewed; and follow-up items, if applicable, to assess compliance.
 - Verify whether the subrecipient's expenditures exceeded the \$750,000 Single Audit threshold. Documents may include annual financial statements and/or annual budgets.
 - If subrecipient expenditures exceeded the \$750,000 Single Audit threshold, verify the subrecipient completed the required Single Audit on-time.
 - If there were findings in the Single Audit, review correspondence between the recipient and its subrecipients regarding documentation of corrective action plans and/or closure of findings.
- Verify that reports can be generated by the subrecipient to identify FTA-funded assets, liabilities, revenues, and expenses.

- During the site visit, follow up on items for which documentation is not available in the recipient's office or for which oversight appears insufficient.

POTENTIAL DEFICIENCY DETERMINATIONS

The recipient is deficient if it does not ensure that subrecipients have the financial capacity to carry out its proposed program of projects.

DEFICIENCY CODE F9-1: Insufficient oversight of subrecipient financial capacity

SUGGESTED CORRECTIVE ACTION: The recipient must submit procedures for ensuring that subrecipients have the financial capacity to carry out its proposed program of projects.

The recipient is deficient if it does not ensure that subrecipients use only eligible funds for match.

DEFICIENCY CODE F9-2: Insufficient oversight of subrecipient match funds

SUGGESTED CORRECTIVE ACTION: The recipient must submit procedures for ensuring that subrecipients only use eligible funds for match.

The recipient is deficient if it does not ensure that subrecipients have the financial management systems to carry out the programs and to receive and disburse Federal funds or if the recipient does not ensure that subrecipients can adequately document reimbursement requests.

DEFICIENCY CODE F9-3: Insufficient oversight of subrecipient financial management systems

SUGGESTED CORRECTIVE ACTION: The recipient must submit procedures for ensuring that subrecipients have the financial management systems to carry out the programs, receive and disburse Federal funds, and adequately support reimbursement requests.

The recipient is deficient if it does not review/verify its subrecipients' application of indirect costs to FTA awards for compliance with related requirements.

DEFICIENCY CODE F9-4: Insufficient oversight of subrecipient indirect cost

SUGGESTED CORRECTIVE ACTION: The recipient must submit procedures, along with evidence of its implementation, for ensuring that subrecipients that claim indirect costs have and comply with the requirements of their cost allocation plans.

The recipient is deficient if it does not ensure that Single Audits are completed and submitted as required; if the recipient does not review subrecipient audits and ensure that audit findings related to the FTA-funded program are resolved.

DEFICIENCY CODE F9-5: Insufficient oversight of subrecipient audits

SUGGESTED CORRECTIVE ACTION: The recipient must submit procedures for obtaining and reviewing subrecipients' Single Audits and monitoring the resolution of audit findings.

The recipient is deficient if it does not ensure that recipients seek reimbursement for eligible expenditures in compliance with FTA guidance.

DEFICIENCY CODE F9-6: Insufficient oversight of subrecipient request for reimbursement

SUGGESTED CORRECTIVE ACTION: The recipient must submit procedures for ensuring that subrecipients seek reimbursement for eligible expenditures in compliance with FTA guidance.

GOVERNING DIRECTIVE

2 CFR Part 200.332(d) Requirements for pass-through entities

A pass-through entity must...(e) Monitor the activities of a subrecipient as necessary to ensure that the subrecipient complies with Federal statutes, regulations, and the terms and conditions of the subaward. The pass-through entity is responsible for monitoring the overall performance of a subrecipient to ensure that the goals and objectives of the subaward are achieved. In monitoring a subrecipient, a pass-through entity must: (1) Reviewing financial and performance reports. (2) Ensure that the subrecipient takes corrective action on all significant developments that negatively affect the subaward. Significant developments include Single Audit findings related to the subaward, other audit findings, site visits, and written notifications from a subrecipient of adverse conditions which will impact their ability to meet the milestones or the objectives of a subaward. When significant developments negatively impact the subaward, a subrecipient must provide the pass-through entity with information on their plan for corrective action and any assistance needed to resolve the situation. (3) Issue a management decision for audit findings pertaining only to the Federal award provided to the subrecipient from the pass-through entity as required by §200.521.

2 CFR Part 200.332(e) Requirements for pass-through entities

A pass-through entity must...(f) Depending upon the pass-through entity's assessment of risk posed by the subrecipient (as described in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals: (1) Providing subrecipients with training and technical assistance on program-related matters; and (2) Performing site visits of the subrecipient's program operations; (3) Arranging for agreed-upon-procedures engagements as described in §200.425.

2 CFR Part 200.332(a)(4)(i) Requirements of pass-through entities

A pass-through entity must ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information...An approved indirect cost rate negotiated between the subrecipient and the Federal Government. If no approved rate exists, a pass-through entity must determine the appropriate rate in collaboration with the subrecipient. The indirect cost rate may be either: (A) An indirect cost rate negotiated between the pass-through entity and the subrecipient. These rates may be based on a prior negotiated rate between a different pass-through entity and the subrecipient, in which case the pass-through entity is not required to collect information justifying the rate but may elect to do so; or (B) The de minimis indirect cost rate.

2 CFR Part 200.332(f) Requirements for pass-through entities

A pass-through entity must...Verify that every subrecipient is audited as required by Subpart F of this part when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501.

ISSUES/AREAS OF CONCERN FOR FTA AWARENESS

Did background research and/or onsite observations support any of the concerns below:

- What financial management or capacity concerns are identified in the OAT? How does background research and onsite investigation support the OAT assessment?
- What was the nature of any Single Audit report findings not reported to FTA that should have been? Is the recipient designated as a “low risk auditee” in the Single Audit report?
- Were there financial management or capacity deficiencies in the last Comprehensive Review? What is the status of those findings? Were any repeat findings? Did the recipient experience any difficulty closing findings? Can the recipient demonstrate full understanding and implementation of corrective actions?
- What other financial-related oversight reviews, audits, or investigations has the DOT, OIG, or FTA conducted of the recipient since the last Comprehensive Review (including Financial Management Oversight Reviews, Financial Capacity Assessments, OIG audits, or investigations)? What is the status of those findings? Were any repeat findings? Did the recipient experience any difficulty closing findings? Can the recipient demonstrate full understanding and implementation of corrective actions?
- If the recipient has had any audit/review findings or significant changes to its organization or software being used, have policies and procedures been updated as necessary?
- Do the recipient officials routinely review financial reports? Is there coordination between the financial and programmatic offices in preparing financial and milestone progress reports?
- Has the recipient had numerous ECHO rejections or made numerous credits/refunds in the ECHO system?
- Has FTA implemented drawdown restrictions due to non-compliance with any award requirements?
- Has there been any turnover of financial management staff? Are there any openings not filled? What is the impact on the recipient?
- If new transit service or an expansion of existing service is planned, have those plans been reflected in financial plans?
- Are there any concerns related to assumptions or projections the recipient has made to demonstrate it has the required financial capacity to execute the FTA program? Are projects delayed due to difficulties with securing local share?
- Any potential financial management or capacity issues or concerns not already covered in this section?

REFERENCES

1. 49 U.S.C. Chapter 53, Federal Transit Laws
2. 2 CFR Parts 200 and 1201, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards"
3. FTA Circular 5010.1E, "Award Management Requirements"
4. FTA Circular 9030.1E, "Urbanized Area Formula Program: Program Guidance and Application Instructions"

5. FTA Circular 9040.1G, “Formula Grants for Rural Areas: Program Guidance and Application Instructions”
6. FTA Circular 9045.1, “New Freedom Program Guidance and Application Instructions”
7. FTA Circular 9070.1G, “Enhanced Mobility of Senior and Individuals with Disabilities Program Guidance and Application Instructions”

USEFUL WEBLINKS

1. United States Bureau of Fiscal Service
2. Flexible Funds: FHWA and FTA Programs
3. Revenue Bonds
4. Debt Service Reserve Financing
5. Electronic Clearing House Operation (ECHO) Web User Manual for FTA and FAA
6. Federal Audit Clearinghouse (FAC)
7. A Guide for States and Local Government Agencies: Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government
8. Coronavirus Aid, Relief, and Economic Security Act
9. FTA’s Frequently Asked Questions From FTA Grantees Regarding Coronavirus Disease 2019
10. Notice of Concurrence
11. Emergency Relief rule
12. OMB Memorandum M-20-17, Appendix A
13. OMB Memorandum M-20-26

ECHO TRANSACTION SAMPLING PROCEDURES

Select a sample (minimum of nine) ECHO transactions. To develop this sample:

1. Download TrAMS Data – Prior to the site visit, prepare a list of ECHO transactions for the period from the date of the last site visit to the date of the current site visit
2. Select ECHO Transactions – Select at least three ECHO transactions from each year of the review period. Use the following characteristics as guide for selecting these transactions:
 - a. Select from different award programs (i.e., 5307, 5309, 5316, 5317, 5324)
 - b. Select from different financial purpose codes. Common financial purpose codes are:
 - 00 - Capital
 - 01 - Research & Training
 - 02 - Planning
 - 03 - Elderly and Disabled
 - 04 - Operating Assistance
 - 05 - Project Administration
 - 06 - State Administration
 - 07 – Rural Technical Assistance Program
 - 08 - ADA Paratransit
 - 09 - Multiple Types
 - c. Select large capital draws
 - d. Select preventive maintenance
 - e. Select at least one draw for private operator subrecipient reimbursement (if none exist, note in the workpapers that there were no private operator reimbursements)
 - f. Select flat dollar amounts such as \$80,000
 - g. Select any unusual credits that appear to be systematic
 - h. If the recipient uses in-kind costs as match, request ECHO drawdown where such costs were used
3. Prior to the site visit, request that the recipient have available the entire ECHO drawdown that contains the ECHO transactions selected, along with supporting documentation.
4. During the site visit, analyze the selected ECHO transactions to identify the underlying transactions. Underlying transactions consist of checks, invoices, personnel data, in-kind charges, etc.

5. The following attributes should be tested:
 - a. Ensure that an individual other than the one preparing the drawdown approves the drawdown.
 - b. Ensure that someone other than the approving official draws the funds.
 - c. Ensure that the individual approving ECHO drawdowns is either the registered ECHO approving official or a person to whom this person has delegated the authority in writing. The approving official appears on the print out of the ECHO screen.
 - d. Ensure the sum of the underlying transactions equals the amount of the ECHO transactions selected in Step 2.
 - e. For each selected ECHO transaction, select a minimum of one underlying transaction to verify that supporting source documents such as cancelled checks, paid bills, payrolls, time and attendance records, contracts, and subaward documents are maintained to support the underlying transaction(s) selected. If documentation includes indirect cost, review cost allocation plan to confirm the correct rate was used.
 - f. Ensure that expenses tested are at the correct Federal share and are reasonable, allowable, and allocable to the award charged.
 - g. Ensure that advanced funds drawn down were expended within three business days.

ADDITIONAL SAMPLING PROCEDURES FOR ECHO DRAWS SUPPLEMENTAL FUNDS

In addition to the nine ECHO draws selected for review in accordance with the “ECHO Transaction Sampling Procedures,” use the following procedures for selecting CARES Act, CRSSA, ARP Act, and ER funds drawdowns.

1. The minimum sample size for supplemental funding awards is nine. If there are less than nine drawdowns, please note in the workpapers.
2. Select from more than one award, if available
 - I. Drawdowns for these funds are identifiable by the following Limitation (LIM) Codes relating to the different funding programs, which are included in the Account Class Code section of the disbursement report:
 - a. Cares Act – Appropriation Code 29
 - CV – Urbanized Area and Rural Area
 - AV – Appalachian Development
 - TV- Tribal
 - b. CRRSAA – Appropriation Code 28
 - CR – Urbanized Area and Rural Area
 - TR – Tribal Transit
 - Mobility of Seniors and Individuals with Disabilities:
 - LR – Population of 200K+
 - MR – Population of 50K to 200K
 - SR – States
 - c. ARP – Appropriation Code 32
 - PV – Urbanized Area
 - Mobility of Seniors and Individuals with Disabilities:
 - PL – Population of 200K+

- PM – Population of 50K to 200K
 - PS – States
 - Rural Area:
 - PR – Rural Area
 - P6 – Rural Transit Assistance Program (RTAP)
 - PI – Intercity Bus
 - PF – Tribal Transit
3. Select different award programs that have overlapping periods of performance
 4. Select from different financial purpose codes (00, 02, or 04), if available
 5. Select at least one draw for operating expenses
 6. Select at least one draw for private operator subrecipient reimbursement (if none exist, note in the workpapers that there were no private operator reimbursements)
 7. Select large draws
 8. Select flat dollar amounts such as \$1,000,000
 9. Select any credits that appear to be systemic

ASSESSMENT PROCEDURES FOR ECHO DRAWS WITH CARES ACT, CRSSAA, ARP ACT OR ER FUNDS

Follow normal assessment procedures for ECHO draws with modifications noted below for ECHO draws involving CARES Act, CRSSAA, ARP Act, or ER funds.

Eligible Costs

Select a minimum of one underlying transaction to ensure that costs were incurred the earlier of (a) January 20, 2020 and after, or (b) after the recipient's state declared a State of Emergency or major disaster. For ER funds, ensure costs are related to responding to the COVID-19 public health emergency.

1. For each drawdown selected for review, determine whether the recipient calculated operating expenses accurately:
 - a. **Eligible Operating Expense** accumulated for periods (a) after January 20, 2020 or (b) after the recipient's state declared a State of Emergency or major disaster. For ER funds, ensure costs are related to responding to the COVID-19 public health emergency, such as:
 - i. Direct labor, including:
 1. Bonuses and incentive compensation. If any bonuses or incentive compensation included in the payroll expenses, determine whether they appear reasonable and whether supporting documentation indicates that an agreement for these expenses were entered into before the services were rendered.
 2. Administrative leave for operations and maintenance employees.
 - ii. Materials
 - iii. Contracted services

- iv. Preventive Maintenance (if preventive maintenance is included in operating expenses for COVID-19 relief, review documentation for ongoing urban and rural programs to ensure they are not being charged as capital expenses).
 - v. Operating portion of capital cost of contracting.
 - vi. Indirect costs
 - vii. If applicable, any expenses charged to another federal (e.g., FEMA, HUD, DOJ, etc.), state or local award
- b. If any **indirect costs** are being drawn down, verify:
- i. There is an approved ICRP and/or CAP
 - ii. Indirect costs are charged at the approved rate (or at the de minimis rate, if allowed)
- c. **Eliminations:**
- i. Farebox Revenues
 - ii. Earned interest
 - iii. Proceeds from the sale of equipment in excess of the depreciated value (gains)
 - iv. Cash discounts and refunds
 - v. Insurance claims
 - vi. Reimbursements that directly offset accrued liabilities
 - vii. If applicable, any expenses charged to another federal award (e.g., FEMA, HUD, DOJ, etc.)
- d. Determine whether the types of **unallowable items** listed below were excluded from the draw if incurred during the period:
- i. School bus operations
 - ii. Charter bus operations
 - iii. Entertainment expenses
 - iv. Fines, penalties or charitable donations
 - v. Contingencies
 - vi. Depreciation
 - vii. Interest expense on long-term borrowing and debt retirements
 - viii. Claims for reimbursement of lost revenue
- e. For any awards that include funding for activities other than payroll and other operating expenses, did recipient certify that it had not furloughed any employees since March 27, 2020? Is there any indication to contradict such a certification? If there is an indication to contradict the certification, the recipient must submit evidence that it did not furlough any employees while using supplemental funding for non-operating expenses. Discuss with Regional Office.

Duplicate Costs

If the recipient disbursed funds from an ER award, obtain from FTA (Office of Program Management) the listing of recipients that have received/requested FEMA funds. If the recipient is on the list, obtain a copy of the FEMA award document to identify what the funds were to be used for. Compare the FEMA and FTA award documents to identify any duplication of cost. Include a drawdown from any ER award that seems duplicative in nature with the FEMA funds in your sample of ECHO draws. Request and review a reimbursement request submitted to FEMA for the same period of activity as covered by the ECHO draw. Compare the costs included in both requests to determine if they appear to be the same. Discuss any similarities with the recipient and with the regional office, as necessary.

For any expenses that were reimbursed by more than one Federal program, a state or local award, discuss with the regional office how to address the issue.

Indirect Costs

If the recipient is charging indirect costs, but the approved rate has expired, contact the FTA regional office to determine if a one-year extension of the use of the currently approved indirect cost rate was granted. Contact the FTA regional office to determine if extensions were provided to the annual Cost Allocation Plan (CAP) and/or Indirect Cost Rate Proposal (ICRP) annual submission. If the CAP and/or ICRP is expired, obtain from the recipient its approved extension request from FTA to continue to use its current plan.