

7. SATISFACTORY CONTINUING CONTROL

PURPOSE OF THIS REVIEW AREA

The recipient must ensure that Federal Transit Administration (FTA)-funded property will remain available to be used for its originally authorized purpose throughout its useful life until disposition.

QUESTIONS TO BE EXAMINED

1. For FTA-funded real property purchased under an award made on or after December 26, 2014, does the recipient maintain adequate records on the status of real property and submit required reports to FTA?
2. For FTA-funded excess real property purchased under an award made before December 26, 2014, did the recipient prepare and update an excess property inventory and utilization plan?
3. Did the recipient follow FTA requirements for incidental use of real property?
4. Has the recipient made appropriate efforts to use, lease, or dispose of idle facilities?
5. Is FTA-funded real property used solely for its originally authorized purpose?
6. If the recipient disposed of FTA-funded real property since the last Comprehensive Review, were FTA requirements followed?
7. Does the recipient have flood insurance for any FTA-funded buildings located in areas that have been identified as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968?
8. Does the recipient maintain control over FTA-funded equipment?
9. Was equipment withdrawn from use and disposed of in accordance with 49 USC § 5334(h) and 2 CFR 200 and FTA requirements?
10. Are bus fleets managed in accordance with FTA requirements for spare ratios and contingency fleets?
11. Does the rail fleet management plan meet FTA requirements?
12. Does the recipient maintain control over FTA-funded property and ensure that subrecipients use FTA-funded property for project purposes?

INFORMATION NEEDED FROM RECIPIENT

Recipient Information Request

- Property management procedures, if written
- Real property inventory, which requires the following:
 1. property location/physical address
 2. use and condition of the property
 3. summary of conditions on the title
 4. brief description of improvements, expansions, and retrofits
 5. corresponding useful life for the assets;
 6. date placed in service
 7. original acquisition cost
 8. sources of funding
 9. Federal and non-Federal participation ratios

10. Federal award identification number
 11. appraised value and date
 12. anticipated disposition or action proposed
 13. date of disposal
 14. sale price of the property.
- A listing of FTA-funded real property purchased under an award made before December 26, 2014 and/or an FTA-funded real property inventory for purchases under an award made on or after December 26, 2014, that:
 1. Has an incidental use
 2. Is operated/managed by contractors or lessees
 3. Is owned/managed by subrecipients
 4. Was constructed or renovated since the last review
 5. Is idle for more than one year
 - Excess FTA-funded real property plan
 1. Include property removed from service during the review period
 - Sample real property incidental use agreements
 - List of FTA-funded facilities planned to be constructed or renovated. For each facility, include:
 1. Projected and actual start date
 2. Projected and actual completion date
 3. FTA portion and total project cost
 - Procedures to determine which federally assisted buildings and/or building content are located in a special flood hazard area
 - Procedures for determining sufficient levels of insurance
 - Evidence of flood insurance
 - Equipment management procedures addressing (if separate from state management plan):
 1. Inventory control
 2. Loss prevention
 3. Insurance requirements
 4. Disposition requirements
 - Documentation of last physical inventory conducted along with documentation that an inventory reconciliation was completed
 - List of vehicles identified as:
 1. Active, contingency or awaiting disposal
 2. FTA or locally funded
 3. FTA program under which was funded (Section 5307, Section 5310, etc.)
 4. Leased or directly operated (identify lessee or operator)
 5. Third party maintained (identify maintenance contractor)
 6. Under warranty
 7. With incidental use
 - List of FTA funded equipment disposed of within past three years identifying
 1. Useful life remaining
 2. Depreciated value (Book value) at disposition
 3. How proceeds were utilized, prior to November 15, 2021
 4. Documentation of proceeds returned to FTA via pay.gov
 - Documentation of peak fixed-route bus service requirements, such as rolling stock roster, documentation from scheduling software or other dispatch records documenting the peak
 - Deviation request or special dispensation for spare ratio
 - Contingency fleet plan
 - Rail fleet management plan
 - Sample lease agreement with private operator, if applicable

Recipient Follow-up

- Notification to FTA for the real property removed from the service originally intended at the time of award approval or put to additional or substitute use
- FTA approval of incidental use of FTA-funded equipment

- Disposition request/approval correspondence
- Proof of funds reimbursed to FTA (sale records or financial reports), if required
- Request/approval correspondence between the recipient and FTA
- Sample pull-out logs or fueling logs

SCC1. For FTA-funded real property purchased under an award made on or after December 26, 2014, does the recipient maintain adequate records on the status of real property and submit required reports to FTA?

BASIC REQUIREMENT

For Awards and Cooperative Agreements (and funding increments to existing Awards and Cooperative Agreements) awarded on or after December 26, 2014, recipients must maintain adequate property records and submit reports on the status of real property in which the Federal Government retains an interest.

APPLICABILITY

Recipients with FTA-funded real property and with subrecipients with FTA-funded real property

DETAILED EXPLANATION FOR REVIEWER

For Awards and Cooperative Agreements (and funding increments to existing Awards and Cooperative Agreements) awarded on or after December 26, 2014, FTA requires that recipients maintain a real property inventory of and submit reports on the status of real property in which the Federal government retains an interest. Real property includes land, affixed land improvements, structures, and appurtenances. FTA has an interest in real property when FTA funds were used to purchase, construct, improve, or repair the property. The inventory and reports must address the FTA-funded real property of the recipient and subrecipients.

A real property inventory must include: property location/physical address; use and condition; summary of conditions on the title; brief description of improvements, expansions, and retrofits; corresponding useful life for the assets; date placed in service; original acquisition cost; sources of funding; Federal and non-Federal participation ratios; award identification number; appraised value and date; anticipated disposition or action proposed; date of disposal; and sale price of the property. If the property is excess, the recipient must identify the reasons for having excess property, such as purchase to a logical boundary. This inventory is necessary in order to accurately account for assets and determine an equitable valuation of Federal interest retained in the property.

Reports must be submitted annually. In those instances where the Federal interest extends for a period of 15 years or more, FTA may require the non-Federal the non-Federal entity to report at various multi-year frequencies (e.g., every two years or every three years, not to exceed a five-year reporting period; or a Federal awarding agency or pass-through entity may require annual reporting for the first three years of a Federal award and thereafter require reporting every five years)..

FTA requires recipients to upload the reports to the Transit Award Management System (TrAMS) under recipient documents and email the regional office when the report has been uploaded.

INDICATORS OF COMPLIANCE

- a. Does the recipient maintain a real property inventory?*

Real Property Inventory Required Elements	Comment
Property location/physical address	-
Use and condition of the property	-
Summary of conditions on the title	-
Brief description of improvements, expansions, and retrofits	-
Corresponding useful life for the assets	-
Date placed in service	-
Original acquisition cost	-
Sources of funding	-
Federal and non-Federal participation ratios	-
Federal Award Information Number (FAIN)	-
Appraised value and date	-
Anticipated disposition or action proposed	-
Date of disposal	-
Sale price	-
Reason for excess property	-

b. Do the inventory and/or reports include real property owned by subrecipients?

c. Has the recipient submitted real property reports at the required intervals?

INSTRUCTIONS FOR REVIEWER

Confer with the regional office to determine if the recipient is required to submit a real property report, and when and how submission is required. Review TrAMS to determine if the recipient submitted the real property report. If not submitted, obtain the report from the recipient and review it to determine if it addresses the required elements.

Obtain and review the recipient's excess real property inventory and excess real property utilization plan to confirm it contains the required elements. Discuss with the recipient whether the plan is current.

POTENTIAL DEFICIENCY DETERMINATIONS

The recipient is deficient if the real property inventory does not contain all of the required information including reasons for having excess real property.

DEFICIENCY CODE SCC1-1: Property records missing information

SUGGESTED CORRECTIVE ACTION: The recipient must prepare and submit updated real property reports with all missing information.

The recipient is deficient if real property inventory does not include real property owned by subrecipients.

DEFICIENCY CODE SCC 1-2: Property records missing subrecipient information

SUGGESTED CORRECTIVE ACTION: The recipient must prepare and submit updated real property reports with all missing information.

The recipient is deficient if it has not submitted the required property report as required.

DEFICIENCY CODE SCC 1-3: Property reports not submitted as required

SUGGESTED CORRECTIVE ACTION: The recipient must prepare and submit real property reports along with procedures for preparing and submitting such reports timely.

GOVERNING DIRECTIVE

Section 5309(c)(1)(B)(ii).

The Secretary may make a grant under this section for new fixed guideway capital projects, small start projects, or core capacity improvement projects, if the Secretary determines that... the applicant has, or will have... satisfactory continuing control over the use of the equipment or facilities.

Section 5307(d)(1)(B)

A recipient may receive a grant in a fiscal year only if the recipient... submits... certification for that fiscal year that the recipient... has or will have satisfactory continuing control over the use of equipment and facilities.

2 CFR 200.311 Real property

(b) *Use.* Except as otherwise provided by Federal statutes or the Federal awarding agency, real property must be used for the originally authorized purpose as long as it is needed for that purpose.

2 CFR 200.330 Reporting on real property

The Federal agency or pass-through entity must require the recipient or subrecipient to submit reports on the status of real property in which the Federal Government retains an interest. Such reports must be submitted at least annually. In instances where the Federal Government's interest in the real property extends for 15 years or more, the Federal agency or pass-through entity may require the recipient or subrecipient to report at various multi-year frequencies. Reports submitted at multi-year frequencies may not exceed a five-year reporting period. The Federal agency must only require OMB-approved government-wide data elements on recipient real property reports.

FTA Circular 5010.1E Ch. IV, Section 2. Real Property, (i) Property Management (2)-(6)(a)3a-e

(2) Use. Real property must be used for the originally authorized purpose as long as needed for that purpose. Recipients must not dispose of, modify the use of, or encumber its title or other interests in the Federally assisted site and facilities without prior FTA written approval. Recipients are required to use Federally assisted property continuously and appropriately throughout the useful life of the property. Recipients may be required to return the entire amount of Federal assistance spent on the Award or Federally assisted property thereunder if, during the useful life, the recipient has unreasonably delayed or failed to use the Federally assisted property for its originally intended purpose. Recipients are also required to notify FTA before property is removed from the service originally intended at the time of approval of the Award and if property is put to additional or substitute uses.

(3) Maintenance. Real property must be appropriately maintained. A description of the improvements, expansions, retrofits, and maintenance of real property must be properly documented in the facility inventory along with parcel address or location, useful life, date placed in service, original acquisition cost and Federal percentage of cost in order to accurately determine an equitable valuation of Federal interest at the time of early disposition of the asset.

(5) Reporting on Real Property. Recipients must maintain adequate records on the status of real property in which the Federal Government retains an interest. FTA requires that recipients maintain a real property inventory on file for review upon request by FTA to satisfy the requirements of 2 CFR § 200.329, which requires recipients to submit reports on an annual basis for real property in which the Federal Government retains an interest. In instances where the Federal interest in the real property will extend for a period of 15 years or more, a recipient may request FTA's permission to report at multi-year frequencies, not to exceed a five-year reporting period. A Real Property Inventory must include: property location/physical address; use and condition of the property; summary of conditions on the title; brief description of improvements, expansions, and retrofits; corresponding useful life for the assets; date placed in service; original acquisition cost; sources of funding; Federal and non-Federal participation ratios; Federal award identification number; appraised value and date; anticipated disposition or action proposed; date of disposal; and sale price of the property. If the property is excess, identify the reasons for having excess property, such as purchase to a logical boundary. This inventory is necessary in order to accurately account for assets, and determine an equitable valuation of Federal interest retained in the property. The Excess Real Property Inventory and Utilization Plan requirement applies only to Grants or Cooperative Agreements awarded before December 26, 2014. The Real Property Reporting requirement (Real Property Inventory) replaces the Excess Real Property Inventory and Utilization Plan requirement for Grants and Cooperative Agreements (and funding increments to existing Grants and Cooperative Agreements) awarded on or after December 26, 2014.

SCC2. For FTA-funded excess real property purchased under an award made before December 26, 2014, did the recipient prepare and update an excess property inventory and utilization plan?

BASIC REQUIREMENT

For Awards and Cooperative Agreements (and funding increments to existing Awards and Cooperative Agreements) awarded before December 26, 2014, recipients are required to prepare and maintain an inventory and utilization plan for all property that is no longer needed to carry out any transit program.

APPLICABILITY

Recipients with FTA-funded real property

DETAILED EXPLANATION FOR REVIEWERS

For Awards and Cooperative Agreements awarded before December 26, 2014, if FTA-funded real property is no longer needed for any transit purpose, the recipient is required to prepare or update an

excess real property inventory and utilization plan. Real property includes land, affixed land improvements, structures, and appurtenances. The plan should identify and explain the reason for excess real property. The inventory list should include such things as location, summary of any conditions on the title, original acquisition cost, Federal participation ratio, FTA award number, appraised value and date, brief description of improvements, current use, and the anticipated disposition or action proposed. Unless FTA and the recipient agree otherwise, the excess real property inventory and updated excess property utilization plan should be retained by the recipient and made available upon request and during an FTA review.

INDICATORS OF COMPLIANCE

- a. *Was an excess real property inventory and utilization plan prepared or updated?*

- b. *Does the excess real property inventory and utilization plan address the required elements?*

Excess Real Property Inventory and Utilization Plan Required Elements	Comments
Location	-
Summary of any conditions on the title	-
Original acquisition cost	-
Federal participation ratio	-
FTA award number	-
Appraised value and date	-
Brief description of improvements	-
Current use	-
Anticipated disposition or action proposed	-

INSTRUCTIONS FOR REVIEWER

Obtain and review the recipient's excess real property inventory and utilization plan to confirm it contains the required elements. Discuss with the recipient whether the plan is current.

POTENTIAL DEFICIENCY DETERMINATION

The recipient is deficient if it has not prepared an excess real property inventory and unitization plan, if the plan does not address all the required elements, or if the plan is out-of-date.

DEFICIENCY CODE SCC2-1: Lacking excess real property utilization inventory/plan out-of-date

SUGGESTED CORRECTIVE ACTION: The recipient must submit a written excess real property utilization plan, which includes all required elements, or an update to the existing plan.

GOVERNING DIRECTIVE

Section 5309(c)(1)(B)(iii).

The Secretary may make a grant under this section for new fixed guideway capital projects, small start projects, or core capacity improvement projects, if the Secretary determines that... the applicant has, or will have... satisfactory continuing control over the use of the equipment or facilities.

Section 5307(d)(1)(B)

A recipient may receive a grant in a fiscal year only if the recipient... submits... certification for that fiscal year that the recipient... has or will have satisfactory continuing control over the use of equipment and facilities.

2 CFR 200.311 Real property

(b) *Use.* Except as otherwise provided by Federal statutes or the Federal agency, real property must be used for the originally authorized purpose as long as needed for that purpose.

FTA Circular 5010.1E, Ch. I, Section

Excess Real Property Inventory and Utilization Plan (Real Property Inventory): Excess real property inventory and utilization plan means the document that lists each real estate parcel acquired with participation of federal assistance that is no longer needed for purposes of the Grant or Cooperative Agreement, and that states how the recipient plans to use or dispose of the excess real property. The Excess Real Property Inventory and Utilization Plan requirement applies only to Grants or Cooperative Agreements awarded before December 26, 2014.

The Real Property Reporting requirement (Real Property Inventory) replaces the Excess Real Property Inventory and Utilization Plan requirement for Grants and Cooperative Agreements (and funding increments to existing Grants and Cooperative Agreements) awarded on or after December 26, 2014.

FTA Circular 5010.1D, Ch. IV, Section 2. Real Property, (j) Disposition (1)

(1) Excess Real Property Inventory and Utilization Plan. The grantee shall prepare and keep up to date an excess property inventory and utilization plan for all property that is no longer needed to carry out any transit purpose. The inventory list should include such things as property location; summary of any conditions on the title, original acquisition cost, and the Federal participation ratio; FTA grant number, appraised value, and date; a brief description of improvements; current use of the property; and the anticipated disposition or action proposed.

SCC3. Did the recipient follow FTA requirements for incidental use of real property?

BASIC REQUIREMENT

Incidental uses of FTA-funded real property must be compatible with the approved purposes of the award and not interfere with either the intended uses of the property or the recipient's ability to maintain satisfactory continuing control. Real property includes land, affixed land improvements, structures, and appurtenances. Income generated from incidental use may only be used for eligible capital or operating expenses or as part of the non-Federal share of an eligible award.

APPLICABILITY

Recipients with FTA-funded real property

DETAILED EXPLANATION FOR REVIEWER

Incidental use is defined as the authorized use of real property acquired or improved with FTA funds for purposes of transit, but which also has limited non-transit purposes due to transit operating circumstances. Real property includes land, affixed land improvements, structures, and appurtenances. Examples of incidental use include the leasing of space in a station for a newspaper stand or coffee shop and the lease of air rights over transit facilities. (Note that licenses and leases of air rights are treated as incidental uses, not disposition of excess property.) Such use must be compatible with the approved purposes of the project, must not interfere with intended public transportation uses of project assets, must not in any way interfere with the recipient's continuing control over the use of the property, and must not compromise safety. FTA encourages recipients to make incidental use of FTA-funded real property when it can raise additional revenues for the transit system or, at a reasonable cost, enhance system ridership. While FTA is particularly interested in encouraging incidental use as a means of supplementing transit revenue, non-profit uses are permitted, under certain circumstances. The recipient should consult with FTA before continuing incidental use.

Though not required, proceeds should be based on competitive market rents and rates of return based on the appraised fair market value. Income received from the authorized incidental or joint development uses may be retained by the recipient (without returning the Federal share) if the income is used for eligible transit capital and operating expenses. This income cannot be used as part of the local share of the award from which it was derived. However, it may be used as part of the local share of another FTA award.

INDICATORS OF COMPLIANCE

- a. *Does the recipient have incidental uses of any FTA-funded real property? If no, move to the next question.*
- b. *Is the incidental use compatible with the original purpose of the award?*
- c. *Does the recipient maintain continuing control over the property?*
- d. *Are proceeds used for eligible transit capital or operating expenses or as the non-Federal share of an eligible award?*

INSTRUCTIONS FOR REVIEWER

If in TrAMS, review the original award application to determine the proposed uses. Review the listing of real property used for incidental uses obtained from the recipient to determine that they align with the information provided by the regional office.

Obtain any property management procedures used by the recipient to understand how it maintains control over project property. If no such procedures are available, discuss with the recipient during the site visit.

Review financial records obtained in the Financial Management and Capacity area to determine if the recipient recorded income from project property. Review income statements to ensure that income obtained from project property is used to offset cost associated with the FTA-funded service.

During the site visit, tour the FTA-funded facility (or facilities) to confirm current uses of FTA-funded real property to ensure that they are used for authorized purposes and not unauthorized incidental uses.

POTENTIAL DEFICIENCY DETERMINATIONS

The recipient is deficient if the incidental use affects a property's transit capacity or use.

DEFICIENCY CODE SCC3-1: Incidental use affects transit capacity or use

SUGGESTED CORRECTIVE ACTION: The recipient must submit documentation that it has ceased incidental uses of real property that interfere with transit purposes.

The recipient is deficient if the incidental use interferes with its continuing control over project property.

DEFICIENCY CODE SCC3-2: Incidental use interferes with property control

SUGGESTED CORRECTIVE ACTION: The recipient must submit procedures for maintaining satisfactory continuing control over real property used for incidental purposes.

The recipient is deficient if the incidental use income is not used for eligible transit capital or operating expenses.

DEFICIENCY CODE SCC3-3: Incidental use income not used for eligible expenses

SUGGESTED CORRECTIVE ACTION: The recipient must submit documentation that it has applied incidental use income to transit purposes.

GOVERNING DIRECTIVE

Section 5309(c)(1)(B)(iii).

The Secretary may make a grant under this section for new fixed guideway capital projects, small start projects, or core capacity improvement projects, if the Secretary determines that... the applicant has, or will have... satisfactory continuing control over the use of the equipment or facilities.

Section 5307(d)(1)(B)

A recipient may receive a grant in a fiscal year only if the recipient... submits... certification for that fiscal year that the recipient... has or will have satisfactory continuing control over the use of equipment and facilities.

2 CFR 200.311 Real property

(b) *Use.* Except as otherwise provided by Federal statutes or the Federal agency, real property must be used for the originally authorized purpose as long as it is needed for that purpose.

FTA Circular 5010.1E, Ch. IV, Section 2. Real Property, (i) Property Management (2)-(6)(a)3a-e

(6) Non-Transit Uses of FTA Assisted Real Property. FTA's policy is to permit recipients maximum flexibility in determining the best and most cost-effective use of Federally-assisted property. To this end, FTA encourages non-transit uses of real property that can raise additional revenues for the transit system or, at a reasonable cost, enhance system ridership. These non-transit uses are by one of three means: incidental use, joint development, or shared use.

(a) Incidental Use. Incidental uses must be compatible with the approved purposes of the Award and may not interfere with either the intended uses of the property or the recipient's ability to maintain satisfactory continuing control. The recipient should consult with FTA before continuing with incidental use. An incidental use may not affect a property's transit capacity or use. Alterations to accommodate an incidental use should have no negative impact on the transit service or activity. FTA continues to monitor the incidental use after the Award is closed and the recipient is required to keep an inventory of the use. FTA reviews the inventory during the triennial review process.

1 Examples of incidental use include:

- a. Temporary use of transit property as a staging area for nearby construction;
- b. Allowing nearby theaters and restaurants to use transit parking spaces during the transit system's off-hours;
- c. Leasing of space in a station for a newspaper stand or coffee shop when the additional use does not interfere with the original purpose authorized in the Award; and
- d. The lease of air rights over transit facilities or utilities associated with transit facilities (such as spare capacity in general utilities and fiber optics communications utilities) that do not impact the structural configuration of the transit facility.

2 Revocation. An incidental use agreement should permit revocation by the recipient.

3 Limits. The recipient agrees that any incidental use of federally assisted property will not exceed that permitted under applicable Federal requirements and Federal guidance. The recipient may permit non-transit public entities and private entities to have incidental use of its federally assisted facilities and equipment, including alternative fueling facilities and associated equipment, subject to the following considerations:

- a. Needed Property. This policy applies only to property that continues to be needed and used for an FTA Award. It is FTA's intention to assist only in the purchase of property that is needed for an FTA Award.
- b. Purpose & Activity. The use must not compromise the safe conduct of the intended purpose and activity of the initial public transit activity under the Award.
- c. Continuing Control. The use must not in any way interfere with the recipient's continuing control over the use of the property or the recipient's continued ability to carry out the Award.
- d. No-Income Use. While FTA is particularly interested in encouraging incidental use as a means of supplementing transit revenues, no-income uses are also permitted under certain circumstances:

For example, a no-income use could include a private, for-profit transit operator offered queue space, or loading space, at an intermodal facility for the purpose of generating rides, providing a consolidated transit option for the public, and a seamless transit transfer opportunity at no cost. The no-income use shows that the value of having the private operator: 1) benefits transit, as a whole; 2) expands upon the local transportation alternatives; and 3) allows the public to transfer seamlessly.

- e. Income. Proceeds from incidental use including licensing and leasing of air rights or leasing of other real property interest should be based on competitive market rents and rates of return based on the appraised fair market value. Income received from the authorized incidental uses including the use of air rights may be retained by the recipients (without returning the Federal share) if the income is used for eligible transit capital, or operating expenses. This income cannot be used as part of the non-Federal share of the Award from which it was derived. However, it may be used as part of the non-Federal share of another FTA Award.

SCC4. Has the recipient made appropriate efforts to use, lease, or dispose of idle facilities?

BASIC REQUIREMENT

Recipients are required to use federally assisted property continuously and appropriately throughout the useful life of the property.

APPLICABILITY

Recipients with FTA-funded real property

DETAILED EXPLANATION FOR REVIEWER

All FTA-funded real property, including facilities, is expected to be used for the originally authorized purpose throughout the useful life of the property as long as needed for that purpose. Idle facilities are those facilities that are completely unused and excess to the recipient's current needs. This is different from idle capacity which is the unused capacity of partially used facilities. Cost of idle facilities such as maintenance, repair, housing, rent, and other related costs including insurance and depreciation are unallowable, except to the extent that:

- (1) they are necessary to meet workload requirements which may fluctuate and they are allocated appropriately to all programs; or
- (2) it can be shown that the costs were necessary when acquired and are now idle because of changes in program requirements, efforts to achieve more economical operations, reorganization, termination or other causes which could not have been reasonably foreseen. Under this exception, costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed one year, depending on the initiative taken to use, lease, or dispose of the facilities and the justification provided by the recipient for FTA review and approval.

INDICATORS OF COMPLIANCE

- a. *Does the recipient have any FTA-funded facilities that have been idle? If no, move to the next question.*
- b. *What efforts have been made to use, lease, or dispose of idle facilities?*
- c. *If the recipient charged costs incurred for idle facilities for more than one year to an FTA award, did it provide a justification for FTA **prior** review and approval?*

Reasons for Idle Facilities	Comments
The idle facility is necessary to meet workload requirements which may fluctuate	-
Costs were necessary when acquired and the facility is now idle because of changes in program requirements	-

Reasons for Idle Facilities	Comments
Efforts to achieve more economical operations, reorganization, termination were implemented	-
There are other causes which could not have been reasonably foreseen	-

INSTRUCTIONS FOR REVIEWER

Confer with the regional office on whether it is aware of any idle facilities. Onsite discuss with the recipient why facilities are idle.

For facilities that have been idle for more than a year, discuss steps planned or taken to use, lease, or dispose of the facilities. Obtain and review costs charged for the idle facility during the review period to determine that charges were not assessed against an FTA award for more than one year.

POTENTIAL DEFICIENCY DETERMINATIONS

The recipient is deficient if it has idle facilities and does not have plans or has not taken steps to use, lease, or dispose of the facilities.

DEFICIENCY CODE SCC4-1: Lacking plans for idle facilities

SUGGESTED CORRECTIVE ACTION: The recipient must submit a plan for using, leasing, or disposing of idle facilities.

The recipient is deficient if it charged costs incurred for idle facilities for more than one year to an FTA award and did not submit a justification for prior FTA review and approval.

DEFICIENCY CODE SCC4-2: Idle facility cost charged to an award

SUGGESTED CORRECTIVE ACTION: The recipient must submit a justification for charging the costs for an idle facility for more than one year for FTA review and approval and procedures for periodically reviewing property records, identifying idle facility cost, and limiting reimbursement of such cost from an FTA award to no more than one year.

GOVERNING DIRECTIVE

FTA Circular 5010.1E, Ch. IV, Section 2. Real Property, (i) Property Management

(2) Use. Real property must be used for the originally authorized purpose as long as needed for that purpose. Recipients must not dispose of, modify the use of, or encumber its title or other interests in the federally assisted site and facilities without prior FTA written approval. Recipients are required to use federally assisted property continuously and appropriately throughout the useful life of the property. Recipients may be required to return the entire amount of Federal assistance spent on the Award or federally assisted property thereunder if, during the useful life, the recipient has unreasonably delayed or failed to use the federally assisted property for its originally intended purpose. Recipients are also required to notify FTA before property is removed from the service originally intended at the time of approval of the Award and if property is put to additional or substitute uses.

(4) Idle Facilities and Idle Capacity

(a) Idle facility means completely unused facilities that are excess to the recipient's current needs. Idle capacity means the unused capacity of partially used facilities. Idle capacity is the difference between that which a facility could achieve under 100 percent operating time, on a one-shift basis, less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays and the extent to which the facility was actually used to meet demands during the accounting period.

(b) Costs of Idle Facilities or Idle Capacity. Cost of idle facilities or idle capacity means costs such as maintenance, repair, housing, rent, and other related costs including insurance and depreciation. The costs of idle facilities are unallowable except to the extent that they are necessary to meet workload requirements which may fluctuate and are allocated appropriately to all programs or it can be shown that the costs were necessary when acquired and are now idle because of changes in program requirements, efforts to achieve more economical operations, reorganization, termination or other causes which could not have been reasonably foreseen. Under the exception previously stated, costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed one year, depending on the initiative taken to use, lease, or dispose of the facilities and the justification provided by the recipient for FTA review and approval.

SCC5. Is FTA-funded real property used solely for its originally authorized purpose?

BASIC REQUIREMENT

Recipients must use real property for project purposes.

APPLICABILITY

Recipients with FTA-funded real property

DETAILED EXPLANATION FOR REVIEWER

FTA-funded real property is expected to be used for the originally authorized purpose as long as needed for that purpose. Real property includes land, affixed land improvements, structures, and appurtenances. FTA has an interest in real property when FTA funds were used to purchase, construct, improve, or repair the property. During that time, the recipient must not dispose of or encumber its title or other interests in the real property. Recipients are required to notify FTA when property is removed from the service originally intended at award approval or if property is put to additional or substitute uses.

INDICATORS OF COMPLIANCE

- a. *Has any real property been removed from the service originally intended at the time of award approval or put to additional or substitute uses since the last Comprehensive Review?*

- b. *If yes, was FTA notified?*

INSTRUCTIONS FOR REVIEWER

Obtain notification of property put to additional or substitute uses since the last Comprehensive Review from the regional office. Obtain and review the recipient's real property inventory to ascertain if any property is identified as being used for a purpose other than originally approved, removed from service or put to additional or substitute use and determine if FTA was appropriately notified. Obtain any property management procedures used by the recipient to understand how it maintains control over real property. If no such procedures are available, discuss with the recipient during the site visit. During the site visit,

tour the FTA-funded facility (or facilities) to confirm current uses of FTA-funded real property to ensure that they are used for authorized purposes and not unauthorized incidental uses.

POTENTIAL DEFICIENCY DETERMINATION

The recipient is deficient if it did not notify FTA when real property was removed from the service originally intended at the time of award approval or put to additional or substitute use.

DEFICIENCY CODE SCC5-1: Real property not used for authorized purposes

SUGGESTED CORRECTIVE ACTION: The recipient must inform the FTA regional office of real property that has been removed from service or put to additional or substitute uses without FTA approval and must submit to the FTA regional office procedures for notifying FTA when FTA-funded real property has been removed from service or put to additional or substitute uses.

GOVERNING DIRECTIVE

Section 5309(c)(1)(B)(ii).

The Secretary may make a grant under this section for new fixed guideway capital projects, small start projects, or core capacity improvement projects, if the Secretary determines that... the applicant has, or will have... satisfactory continuing control over the use of the equipment or facilities.

Section 5307(d)(1)(B)

A recipient may receive a grant in a fiscal year only if the recipient... submits... certification for that fiscal year that the recipient... has or will have satisfactory continuing control over the use of equipment and facilities.

2 CFR 200.311 Real property

(b) *Use.* Except as otherwise provided by Federal statutes or by the Federal awarding agency, real property must be used for the originally authorized purpose as long as it is needed for that purpose.

FTA Circular 5010.1E, Ch. IV, Section 2. Real Property, (i) Property Management (2)-(6)(a)3a-e

(2) *Use.* Real property must be used for the originally authorized purpose as long as needed for that purpose. Recipients must not dispose of, modify the use of, or encumber its title or other interests in the federally assisted site and facilities without prior FTA written approval. Recipients are required to use federally assisted property continuously and appropriately throughout the useful life of the property. Recipients may be required to return the entire amount of Federal assistance spent on the Award or federally assisted property thereunder if, during the useful life, the recipient has unreasonably delayed or failed to use the federally assisted property for its originally intended purpose. Recipients are also required to notify FTA before property is removed from the service originally intended at the time of approval of the Award and if property is put to additional or substitute uses.

SCC6. If the recipient disposed of FTA-funded real property since the last Comprehensive Review, were FTA requirements followed?

BASIC REQUIREMENT

Recipients must follow FTA requirements for disposition of real property.