



January 16, 2009

The Honorable James L. Oberstar  
Chairman  
House Committee on Transportation and Infrastructure  
2165 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Oberstar:

I write on behalf of the American Public Transportation Association's (APTA) more than 1,500 member organizations to thank you for your leadership in creating and sustaining job growth with public transportation investment. APTA's members strongly support your proposal for infrastructure investment in economic recovery legislation, and we look forward to working with you to improve the public transportation and high-speed passenger rail components of the recent House Democratic legislative proposal.

As promised during yesterday's teleconference, APTA's members have developed a list of suggestions for guidance to the Federal Transit Administration and a list of simple statutory changes or waivers that we believe would be largely uncontroversial and would allow economic recovery funds to be spent in the most expeditious manner possible, thus fostering immediate job creation. Both lists are offered as attachments to this letter.

APTA will also recommend actions to its member transit systems to ensure they are preparing to utilize economic recovery funds and to ensure they can rapidly comply with any environmental and public comment requirements needed for economic recovery investments. APTA's member transit systems and businesses stand ready to use economic recovery funds quickly and effectively.

Finally, APTA's members are committed to assisting you with efforts to increase the public transportation and high-speed rail components of the economic recovery bill. U.S. transit systems could easily spend far more funding in 90 days than the present amount proposed, and they would benefit greatly from "transit energy assistance" grants to advance important energy-efficiency investments while simultaneously stabilizing service levels and preventing fare increases and employee layoffs that are being planned at transit systems across the nation.

Thank you again for your support of public transportation's role in economic recovery. If you have questions, please contact Homer Carlisle of APTA's Government Affairs Department at (202) 496-4810 or email [hcarlisle@apta.com](mailto:hcarlisle@apta.com).

Sincerely yours,

William W. Millar  
President

WWM/tjj

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**Attachment A: Ideas for FTA Direction/Possible Report Language**

- 1) Strongly encourage FTA to take full advantage of existing authority to streamline the grant and contract process.
- 2) Direct FTA to adopt a policy of blanket pre-award authority for money appropriated under the economic recovery legislation. This will allow transit agencies to aggressively award contracts and contribute to speedy results.
- 3) Allow transit agencies to accelerate contract options and liberally assign options to other transit agencies. FTA should take a similar approach to Indefinite Delivery/Indefinite Quantity contracts.
- 4) Encourage extension and modification of existing contracts where such extensions and modifications are not clearly "cardinal changes."
- 5) Streamline the grants process by allowing transit agencies to submit programs of projects (e.g., "state of good repair" projects) or broadly inclusive standardized language that would encompass all projects authorized by the final bill, rather than the normal extensive project descriptions. This will allow FTA and its grantees to pre-populate the grants management system and be prepared for immediate approval of grant packages.
- 6) Temporarily relax the rolling stock spare ratio to avoid punishing agencies that accelerate rolling stock purchases.
- 7) When the local match has been jeopardized because of the freeze in the credit markets allow FTA to permit the use of funds under the economic recovery act to finance local funding losses resulting from such credit problems.

**Attachment B: Ideas for Statutory Modifications**

- 1) **Options for Rolling Stock Purchases:** To ensure that transit agencies can utilize economic recovery funds for rolling stock purchases to the maximum extent, add the following language: “Notwithstanding any other provision of law, a public transportation or intercity bus agency may purchase rolling stock using funds provided by this Act without a competitive procurement process if a manufacturer (or dealer) that has, within the past 24 months, been under contract to furnish rolling stock to the same or another public transportation or intercity bus agency with federal assistance, if the manufacturer (or dealer) is willing to extend the same or more favorable price and other terms to the public transportation or intercity bus agency and the prior contract was executed following a competitive procurement process.”
- 2) **Permit transit agencies to buy goods or services off the GSA list with economic recovery funds.** Amend title 49 with regard to funds provided under the bill by adding: “notwithstanding any other provision of law or regulations, permit funds appropriated under the bill for title 49 to state or local governments, agencies, and instrumentalities to be used to purchase goods and services from all General Services Administration schedules and contracts to the same extent federal agencies are authorized to do so.”
- 3) **Amend pre-award audit requirements by adding the following language:** “Notwithstanding the provisions of 49 U.S.C. 532(m), grantees may accept manufacturers’ certifications of compliance with Buy America requirements of 49 U.S.C. 5323(j) for pre-award purposes.”
- 4) **Bonding requirements.** In order to expedite projects where state or local bonding requirements might adversely affect the expeditious use of funds add the following language: “Notwithstanding any provision of local law or policy, no grantee may require performance or payment bonds in non-construction contracts that are fully funded under this Act. For construction contracts fully funded under this Act, no grantee shall require performance or payment bonds in excess of 10% of the contract amount.”
- 5) **Permit the use of SEP 15 FHWA process for public transportation projects under the economic recovery act to increase project delivery flexibility, encourage innovation, and improve timely project construction.** Amend title 49, section 53, by incorporating provisions under title 23, section 502 (23 U.S.C. sec. 502(a)) Special Experimental Project Number 15 or SEP-15. Also require a 30-day maximum approval process for both title 23 and 49 provisions to preserve consistency.