



AMERICAN PUBLIC TRANSPORTATION ASSOCIATION
FACT SHEET
PRESIDENT’S FY 2025 BUDGET REQUEST: REAL PROPERTY ACQUISITION
May 29, 2024

Issue Summary

Many public transit agencies face difficulties purchasing real property for operations and maintenance facilities because Federal Transit Administration (FTA) policies restrict the purchase of real property where Federal funds will be, or are anticipated to be, used for the purchase or development of that property. In most cases, transit agencies cannot acquire such real property until National Environmental Policy Act (NEPA) processes are completed.

Expanded flexibility for early real property acquisition for public transportation projects is needed to reduce delays and associated costs of projects and to create certainty in property rights with a view toward future use.

APTA Recommendation

- **Urge Congress to adopt section 165 of the President’s Fiscal Year (FY) 2025 Budget Request, which expands public transit agencies’ authority to acquire land prior to the completion of NEPA review.**

On April 7, 2024, the APTA Legislative Steering Committee endorsed this provision, as outlined in President Biden’s FY 2025 Budget Request.

APTA Actions

- **APTA will urge Congress to adopt section 165 of the President’s FY 2025 Budget Request in its letter to Senate and House Committee on Appropriations leaders outlining APTA’s priorities for the FY 2025 THUD Appropriations bill.**

Background

On July 11, 2022, FTA sent a Dear Colleague letter to remind project sponsors that the purchase of real property outside of existing transit corridors cannot proceed until the NEPA process is completed or until FTA has either determined that the project is exempt as a Categorical Exclusion (CE) (i.e., corridor preservation or there will be no substantial changes); issued a decision that there is “Finding of No Significant Impact”; or issued a combined or separate final Environmental Impact Statement and or Record of Decision, ultimately clearing the project.

On March 11, 2024, President Biden released his FY 2025 Budget Request, including a legislative proposal to add flexibility to FTA’s policy on land acquisition prior to NEPA by amending 49 U.S.C. § 5323(q) to replace the term “right-of-way” with “real property interests”, thereby expanding the opportunity for broader property acquisition prior to the completion of



environmental reviews. This proposal would bring FTA's authority into parity with the Federal Highway Administration's property acquisition authority.

During consideration of the FY 2024 THUD Appropriations bill, the Senate adopted a similar proposal (§ 168). APTA urged Senate and House Committee on Appropriations leaders to include this provision in the THUD Appropriations Act. However, the provision was not included in the final THUD Appropriations Act, 2024 (P.L. 118-42, Division F).