



December 4, 2023

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Docket Operations
Office of Management and Budget
Via Regulations.gov

Re: OMB-2023-0017-0001

Dear Docket Clerk:

The American Public Transportation Association (APTA) represents the \$79 billion public transportation industry that provides mobility for millions of Americans each year, directly employs 430,000 people, and supports millions of private-sector jobs. We are pleased to offer comments regarding the Office of Management and Budget's (OMB) proposed Guidance for Grants and Agreements published in the *Federal Register* at 88 FR 69390 on October 5, 2023.

Currently, the Common Grant Rule at 2 CFR 200.458 provides Federal agencies with broad discretion on when to apply pre-award authority. As a result, the timing for eligibility for pre-award authority within the U.S. Department of Transportation (DOT) is applied differently depending on the modal administration and/or grant program.

APTA recommends that OMB clarify its final rule to ensure that pre-award authority starts at the beginning of the Federal fiscal year in which the relevant authorization is enacted, when such costs are necessary and timely to performing the grant's scope of work.

As noted above, DOT's modal administrations apply pre-award authority differently. For instance, the Federal Railroad Administration (FRA) recently published guidance stating that its pre-award eligibility started with the issuance of the Northeast Corridor Inventory. This approach contrasts with the Federal Transit Administration (FTA), which provides pre-award authority for its Capital Investment Grant program at different stages of project development, in recognition of the long lead time needed for certain activities, particularly for large complex projects.

Providing pre-award authority will also help the public transportation industry address ongoing supply chain and material shortage issues. In a September 2023 Associated General Contractors of America survey, two-thirds of construction contractors identified the shortage of materials as a significant factor in project delay.

As noted in our March 13, 2023 comments in response to OMB's request for information on proposed revisions to 2 CFR, without the ability to recover eligible costs, project sponsors are reluctant to begin early work, and thus are unable to demonstrate readiness. Allowing reimbursement for costs incurred prior to grant award will accelerate disbursement of funds to the economy, more quickly generating environmental benefits, good-paying jobs, and investment in historically disadvantaged communities and areas of persistent poverty.

Modifying the Common Grant Rule with clear language that pre-award authority is applied at the **beginning of the Federal fiscal year in which the relevant authorization is enacted** would allow project sponsors to move forward at their own risk, enhancing project competitiveness and the ability to demonstrate project readiness.

Further, given the Infrastructure Investment and Jobs Act's emphasis on transformational projects, which often utilize funds from multiple discretionary grant programs, grantees may have to analyze their costs by grant program depending on pre-award authority timing, creating an administrative burden and a potential compliance risk.

If you have any questions regarding these comments, please contact APTA's General Counsel, Linda Ford at lford@apta.com.

Sincerely,



Paul Skoutelas
President and CEO

cc: The Honorable Peter Buttigieg, Secretary of Transportation