

March 7, 2023

Federal Railroad Administration Answers to Frequently Asked Questions about Advance and Pre-Award Costs for Federal State Partnership for Intercity Passenger Rail (FSP) Northeast Corridor (NEC) Grants

I. Introduction

These answers to frequently asked questions (FAQs) are intended to assist project sponsors with determining eligibility for incurring Advance Costs and Pre-Award Costs for the Federal Railroad Administration's (FRA) Federal-State Partnership for Intercity Passenger Rail (FSP) Northeast Corridor (NEC) projects. These FAQs supplement a policy issued by FRA on March 3, 2023, which is available on FRA's website [here](#). The information in the FAQs is only applicable for FSP projects listed on the [NEC Project Inventory](#) with an Anticipated Obligation amount. The information in the FAQs does not apply to projects applying for FSP grants off the NEC or for any other FRA grant program.

The FAQs are offered as guidance; they do not have the force and effect of law and are not meant to bind the public in any way. This FAQ document is intended only to provide information to the public regarding existing requirements under the law or agency policies.

Please contact FRA-Grants@dot.gov for additional related questions.

II. Questions

1. What are Advance Costs and Pre-Award Costs?

Advance Costs means costs incurred before grant selection and obligation. After obligation of an award, these costs may be approved as Pre-Award Costs. Advance Costs and Pre-Award Costs are permitted under 2 CFR 200.458, which states:

Pre-award costs are those incurred prior to the effective date of the Federal award or subaward directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award and only with the written approval of the Federal awarding agency. If charged to the award, these costs must be charged to the initial budget period of the award, unless otherwise specified by the Federal awarding agency or pass-through entity.

All Advance Costs are incurred at a Project Sponsor's risk and the pre-obligation approval of Advance Cost incurrence does not commit FRA to reimburse such costs; only costs properly requested that are otherwise consistent with the terms of the executed grant agreement would be eligible for reimbursement or could be used as match.

Approval of Advance Cost incurrence is not a legal or implied commitment that the subject project will be selected for FRA assistance or that FRA will obligate Federal funds. Furthermore, it is not a legal or implied commitment that activities undertaken by the Project Sponsor will be eligible for inclusion in the project.

2. What projects are eligible for approval of costs incurred before the date the project is selected?

FRA may approve such costs only for FSP projects on the NEC that are listed on the [NEC Project Inventory](#) with an Anticipated Obligation amount. However, inclusion in the NEC Project Inventory is not an approval of the costs.

3. What is the Earliest Incurrence Date permitted for costs incurred before obligation?

See FRA's policy on Advance and Pre-Award costs for FSP-NEC projects for the definition of "Earliest Incurrence Date" [here](#). The Earliest Incurrence Date for FSP-NEC projects is the date of the first NEC Project Inventory in which the project is listed with an Anticipated Obligation. For all other FRA projects, the Earliest Incurrence Date is the date FRA announces that the project is selected to receive a grant.

4. What types of Advance Costs may be incurred?

In general, activities eligible to receive funding under the FSP Program and within the scope of the project listed on the NEC Project Inventory are eligible to receive approval for Advance Cost incurrence, though the form of approval required will depend on the activity. Costs associated with planning and operations are not eligible.

For a description of the categories of eligible activities, please refer to FRA's policy [here](#).

5. How do I request approval to incur Advance Costs for Preliminary Engineering, Preliminary Environmental Investigation, and Preliminary Real Property Investigation activities?

Email a Written Notice to FRA-Grants@dot.gov explaining your incurrence, or intention to begin incurring, Preliminary Engineering, Preliminary Environmental Investigation, or Preliminary Real Property Investigation costs. Project Sponsors should title the Subject of the Written Notice with the following convention "Advance Cost Incurrence Notice – [Project Title]". Further direction on what to include in your Written Notice can be found in FRA's published policy on [FSP-NEC Advance and Pre-Award Costs](#).

Please ensure that you comply with the requirements therein, which include coordinating with FRA project management and technical staff.

6. How do I request approval to incur Advance Costs for National Environmental Policy Act (NEPA) Documentation, Real Property Acquisition and Equipment and Construction Materials Acquisition, Final Design (FD), and Construction activities?

Email FRA-Grants@dot.gov with a Written Request explaining your intention to begin incurring costs associated with NEPA Documentation, Real Property Acquisition and Equipment and Construction Materials Acquisition, Final Design, and Construction activities. Project Sponsors should title the Subject of the Written Request with the following convention “Advance Cost Incurrence Written Request - Project Title”.

The Written Request should include: (1) a description of the items or activities to be covered by the Pre-Award Authority; (2) the amount to be incurred; and (3) a justification for advancing the identified activities under 2 CFR 200.458, including an explanation of how incurring the costs before grant obligation is necessary for the efficient and timely performance of the scope of work. Additional guidance for what to include in the Written Request can be found [here](#).

7. How will I know if my Written Request to incur Advance Costs is approved?

FRA will review the Written Request and approve, disapprove, or request more information, subject to coordination. If a project is selected for award, only Pre-Award Costs that are covered by an FRA approval are eligible for future reimbursement or may be applied as a non-Federal match.

FRA technical and project delivery staff may request additional information and/or disapprove the Written Request for approval of the Advance Costs Incurrence due to instances of noncompliance or project delivery risk.

8. How do I get reimbursed for incurred Advance Costs?

Incurring Advance Costs before selection and obligation of a grant is at your own risk. You are not guaranteed that your project will be selected for award or that the costs will be reimbursed. However, if your project is selected for award and the costs are included in the scope of work for the executed grant agreement, you should submit a complete request for reimbursement.

9. Is there a minimum local match requirement for incurred Advance Costs?

No. There is not a minimum match requirement while incurring Advance Costs. However, after selection and obligation of a grant agreement, a Project Sponsor’s request for reimbursement should be consistent with the cost-share percentages and other terms and conditions included in the executed grant agreement.

10. Can I apply incurred Advance Costs as non-Federal match?

Yes. Eligible Advance Costs incurred consistent with this policy and other applicable requirements may be applied as non-Federal match once a project has been selected for award and a grant agreement is obligated. Project Sponsors should carefully review the principles for cost sharing or matching in 2 CFR 200.306.

11. Is there a minimum or maximum amount of Advance Costs that can be incurred?

No. However, Project Sponsors are reminded that incurring such costs are at their own risk, and a pre-obligation approval of Advance Cost incurrence is not a legal or implied commitment that the subject project will be selected for assistance or that FRA will obligate federal funds. Project Sponsors should ensure that all applicable prerequisites (e.g., engineering and environmental review) have been met to avoid complications in the event the project is selected, a grant agreement is obligated, and the Project Sponsor requests reimbursement. Incurring project costs that do not comply with Federal requirements may not only render the incurred Advance Costs ineligible, but it may make the entire project ineligible for FSP funding. Project Sponsors are strongly encouraged to contact FRA with any questions before proceeding to incur Advance Costs. If estimated Advance Costs change, please see Question 12.

12. What if my estimated Advance Costs change? Can Advance Costs be revised or updated after receiving FRA approval?

Yes. The Project Sponsor should submit an updated Written Notice or Written Request, as applicable, to FRA-Grants@dot.gov when costs either increase or decrease, explaining the change.

13. Could FRA deny my request to incur Advance Costs?

Yes. FRA may deny a request to incur Advance Costs for NEPA Documentation, Real Property Acquisition and Equipment and Construction Materials Acquisition, Final Design, and Construction costs due to instances of noncompliance or project delivery risk. For example, because Final Design and Construction and Real Property Acquisition and Equipment and Construction Materials Acquisition costs cannot be incurred before completion of the environmental review process, FRA will not issue an approval letter for such activities until the environmental review process has been completed with a Record of Decision, Finding of No Significant Impact, or Categorical Exclusion determination.

However, a Project Sponsor may proceed with Preliminary Engineering, Preliminary Environmental Investigation, and Preliminary Real Property Investigation activities, at risk, after submitting a Written Notice.

Please see additional guidance regarding FRA's review and approval to incur Advance Costs at [here](#).

14. What if I incur costs for Preliminary Engineering, Preliminary Environmental Investigation Preliminary, or Preliminary Real Property Investigation Activities before sending a Written Notice?

Preliminary Engineering, Preliminary Environmental Investigation, and Preliminary Real Property Investigation Advance Costs that have been incurred before Written Notice has been sent are incurred at the Project Sponsor's risk. Please notify FRA of your incurrence or intention to begin incurring such costs (see Question 5).

15. What if I incur costs for NEPA Documentation, Real Property Acquisition and Equipment and Construction Materials Acquisition, Final Design, or Construction activities before receiving an approval letter?

Please notify FRA of your incurrence or intention to begin incurring Advance Costs for these activities (see Question 6). Such costs that have been incurred before receiving FRA approval are incurred at the Project Sponsor's risk. FRA will review and may deny certain costs due to instances of noncompliance or project delivery risk.

16. What if my project is not selected and I have already incurred costs?

Those costs may still be eligible under a future award because FRA could select a project for award under a future Notice of Funding Opportunity (NOFO). All Advance Costs are incurred at the Project Sponsor's risk until a grant agreement is executed and the costs are deemed eligible for reimbursement or match. FRA may provide a pre-obligation approval of Advance Cost incurrence only for FSP projects on the NEC that are listed on the [NEC Project Inventory](#) with an Anticipated Obligation amount.

17. What if I'm not selected from the first NOFO, can I still count my costs back to the date of the first NEC Project Inventory if I'm selected under a subsequent NOFO?

FRA may approve costs incurred on or after the date of the first NEC Project Inventory in which the project is listed with an Anticipated Obligation. (See Question 3.)

18. What if I finish the Project Lifecycle Stage and my project is no longer on the NEC Project Inventory as a funding need?

FRA may approve costs incurred on or after the date of the first NEC Project Inventory in which the project is listed with an Anticipated Obligation. (Question 3). If your Project has

been removed from the NEC Project Inventory, or had its “Anticipated Obligation” amount removed, or is listed on the NEC Project Inventory with a funding allocation to support a different Lifecycle Stage, please contact your FRA Project Manager for additional clarification. **Are project costs incurred before the publication of the first NEC Project Inventory in which my project is listed with an Anticipated Obligation eligible to receive approval?**

No. These costs are not eligible.

19. Does this policy extend approval for the incurrence of Advance Costs beyond this FSP Program?

No. This FAQ and [policy](#) are only applicable to projects listed on the NEC Project Inventory with an Anticipated Obligation amount. This FAQ and policy do not apply to projects that are eligible for FSP funding but located off the NEC.

20. When was the NEC Project Inventory published?

The first NEC Project Inventory was published on November 15, 2022, and it is located [here](#). FRA will publish an updated NEC Project Inventory at least once every two years.

21. Should I include incurred Advance Costs in my application for the FSP-NEC program?

Yes. Any incurred Advance Costs should be included by task and estimated Federal and non-Federal share of costs in the grant application. Such information will not negatively impact an application.

22. If FRA approves an Advance Cost Incurrence or approves Pre-Award costs after obligation, does that mean the project is automatically eligible for similar authority related to Federal Transit Administration (FTA) or other modal administration funds as well?

No. For a project that includes or may include FTA funding or funding from other modal administrations, project sponsors should contact the modal administration for guidance on the eligibility of such costs for their funding.