

September 22, 2023

Federal Railroad Administration Answers to Frequently Asked Questions about Pre-Award Authority

I. Introduction

These answers to frequently asked questions (FAQs) are intended to assist Project Sponsors with obtaining Pre-Award Authority for activities funded under Federal Railroad Administration (FRA) grants other than Federal-State Partnership for Intercity Passenger Rail (FSP) Northeast Corridor (NEC) grants.¹

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 questions about the FAQs. For project-specific questions, please contact the assigned FRA Project Manager.

II. Questions

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

Pre-Award Costs are incurred after the award selection announcement date (i.e., the project selected in response to a Notice of Funding Opportunity (NOFO)) but before the grant is obligated. All Pre-Award Costs are incurred at a Project Sponsor's risk.

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.

Pre-Award Authority is provided by FRA that confirms Pre-Award Costs will be reimbursed after obligation provided those costs were incurred after the award selection announcement date, are compliant with Federal law, and are permissible under [2 CFR 200](#)

¹ Pre-award cost information for FSP-NEC projects is available on FRA's website [here](#).

and the award. Pre-Award Authority does not commit FRA to obligate the award or reimburse Pre-Award Costs. FRA may, at its discretion, conduct oversight of Pre-Award Costs in the same manner that it would conduct oversight of a project and project costs post-award.

2. For what types of activities may FRA provide Pre-Award Authority?

For activities funded under FRA's discretionary grant programs, Pre-Award Costs need to be incurred for activities within the scope of the project selected and may be associated with any stage in the project lifecycle² provided they are incurred in compliance with applicable requirements.

For activities funded with directed funding (e.g., congressionally directed spending, Amtrak, and administratively directed spending), Project Sponsors should contact FRA-Grants@dot.gov to discuss Pre-Award Costs.

3. How do National Environmental Policy Act (NEPA) requirements affect Pre-Award Costs?

Generally, NEPA must be completed before Pre-Award Costs are incurred for property acquisition, purchase of construction materials or rolling stock, final design, and construction activities as detailed in [23 CFR § 771.113](#). Some exceptions to this restriction include the purchase of railroad components or materials that can be used for other projects or resold, per [23 CFR § 771.113\(d\)\(4\)](#). FRA strongly recommends that Project Sponsors with questions about incurring costs related to the timing of NEPA completion contact FRA-Grants@dot.gov for routing to the appropriate FRA subject matter expert.

4. What is the earliest date Pre-Award Costs may be incurred before grant obligation?

The earliest date Pre-Award Costs may be incurred for certain activities is the award selection announcement date. Examples of activities for which Pre-Award Costs may be incurred as of the award selection announcement date include preliminary design and engineering, environmental document preparation, project administration costs, and hiring consultants for allowable purposes.

However, for final design activities, property acquisition, purchase of construction materials or rolling stock, or project construction, the earliest date Pre-Award Costs may be incurred is the award selection announcement date or the signature date on the associated environmental decision (i.e., Record of Decision (ROD), Finding of No Significant Impact (FONSI), or Categorical Exclusion (CE)), whichever is later. This is because, under [23 CFR § 771.113\(a\)](#), Pre-Award Costs for such activities may not be

² See FRA Guidance on Development and Implementation of Railroad Capital Projects, January 11, 2023 available on FRA's website [here](#).

incurred before the CE, FONSI or ROD is completed.³

FRA may identify additional prerequisites to incurring Pre-Award Costs, such as completion of preliminary engineering before final design activities. FRA encourages Project Sponsors to contact FRA-Grants@dot.gov to discuss the timing of incurring Pre-Award Costs.

Any costs incurred before the above-specified earliest date may make the entire project unallowable.

FRA will not reimburse Project Sponsors for costs incurred before the award selection announcement date.

5. How do I request Pre-Award Authority?

FRA will contact each Project Sponsor shortly after the award selection announcement date to discuss the requirements for grant obligation, FRA points of contact, and Pre-Award Costs. In general, to request Pre-Award Authority, the Project Sponsor should provide the following to the FRA Project Manager:

- A. Description of the items/activities associated with the Pre-Award Costs for which Pre-Award Authority is requested;
- B. If applicable (see Question 4), the date of the environmental decision document and any other prerequisites (e.g., engineering status);
- C. Explanation of how the items/activities fit into the scope of work, including the specific Tasks the request falls under;
- D. Confirmation that the activities associated with the requested Pre-Award Costs were included in the grant application;
- E. Explanation of how the Pre-Award Costs incurrence is necessary for efficient and timely performance of the scope of work and why the costs cannot wait until after the grant is obligated;
- F. The total estimated cost to be incurred, including a breakdown of cost by unit (for material purchase) or activity, Task, and Federal and non-Federal matching shares;
- G. The period for pre-award costs, including the date on which costs will begin to be incurred;
- H. Acknowledgment that the costs are being incurred at risk, subject to all applicable requirements and that if the grant is not obligated or costs are deemed unallowable, FRA will not be able to reimburse Project Sponsor for the costs.

Project Sponsors are encouraged to discuss the proposed Pre-Award Costs with their FRA Project Manager before submission. Please contact FRA-Grants@dot.gov for additional related questions.

³ FRA may make exceptions on a case-by-case basis for purchases of railroad components or materials that can be used for other projects or resold that occur after the award selection announcement but prior to the environmental decision, per [23 CFR 771.113\(d\)\(4\)](#). These costs must still be incurred after selection.

6. What if my estimated Pre-Award Costs change? Can Pre-Award Authority be revised or updated after receiving FRA approval?

Yes. A Project Sponsor should submit an updated Pre-Award Authority request if the proposed activities or budget changes. Please contact the FRA Project Manager for additional information.

7. Could FRA deny my request for Pre-Award Authority?

Yes. FRA may deny a request for Pre-Award Authority for different reasons, including programmatic or regulatory noncompliance. A request may also be denied due to project delivery risk or insufficient information in the request letter.

8. How do I get reimbursed for incurred Pre-Award Costs or count them towards a match?

Incurring Pre-Award Costs is at the Project Sponsor's own risk and does not guarantee that the grant will be obligated or that the Pre-Award Costs will be reimbursed. However, FRA may reimburse or count as match Pre-Award Costs if the grant is obligated, the costs are for activities included in the grant scope of work, and the activities are permissible under the grant. The Project Sponsor may work with FRA to include the Pre-Award Costs in the project budget as a match and/or submit a request for reimbursement after obligation. Project Sponsors should carefully review the cost-sharing or matching principles in [2 CFR 200.306](#).

9. Is there a minimum or maximum amount for incurred Pre-Award Costs?

No. However, Project Sponsors are reminded that incurring such costs is at their own risk. Pre-Award Authority is not a legal or implied commitment that the grant will be obligated. If obligated, 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. What if I incur Pre-Award Costs before submitting a request letter?

The Pre-Award Costs may still be reimbursed if incurred after the award selection announcement date. Please work with your FRA Project Manager to determine allowability.

11. If FRA provides Pre-Award Authority, does that mean Pre-Award Costs may be incurred for Federal Transit Administration (FTA) or other modal administration funds as well?

No. Project Sponsors should contact FTA or other U.S. Department of Transportation modal administrations for guidance on Pre-Award Costs associated with their funding.

12. How do I know if my application was selected for funding?

Project Sponsors on the grant application to FRA's discretionary grant programs can review award selection announcements on FRA's website [here](#).

Project Sponsors who have received directed funding should contact FRA-Grants@dot.gov to discuss Pre-Award Costs.