



## **Federal Transit Administration & Federal Railroad Administration**

### **Real Property Acquisition Standard Operating Procedure (SOP)**

#### **Frequently Asked Questions (FAQs)**

#### **1. What is the FRA/FTA Real Property Acquisition SOP?**

The Federal Railroad Administration (FRA) and the Federal Transit Administration (FTA) require compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), 42 U.S.C. § 4601 et seq. for any project financed in whole or in part with Federal funds. FRA and FTA have established different requirements to oversee such projects, however. The SOP aligns each mode's oversight of certain projects jointly financed with Federal funds administered by both FRA and FTA.

#### **2. Does the FRA/FTA Real Property Acquisition SOP apply to my project?**

The SOP applies only to FRA and FTA Multimodal-Funded Major Capital Projects. A Multimodal-Funded Major Capital Project is a single project that involves the construction, expansion, rehabilitation, or modernization of a transportation system: (1) that has a total project cost of \$300 million or more; (2) in which the project sponsor anticipates receiving Federal funds of \$100 million or more; and (3) towards which both FRA and FTA will provide or potentially will provide federal financial assistance. A project can also be considered a Multimodal-Funded Major Capital Project if either the FRA or FTA Administrator determines it to be a Multimodal-Funded Major Capital Project.

#### **3. What if the Project Sponsor decides that they will not acquire real property consistent with the steps outlined in the SOP?**

The SOP is intended to use a risk-based approach to federal oversight of real property acquisition on federally funded transportation projects to eliminate duplication, create synergies, and coordinate multimodal oversight on Major Capital Projects. If a Project Sponsor does not follow the SOP, Project Sponsors will need to coordinate separately with FRA and FTA, meet each agencies' independent requirements, and otherwise maintain two separate oversight processes. In addition, Project Sponsors will be responsible for complying with all applicable federal requirements, laws, regulations, and independent grant requirements as administered directly by FRA and FTA.

**4. What is a risk-based approach and why are FRA and FTA using this approach to real property acquisition on multimodal major capital projects?**

FRA and FTA believe that a risk-based approach will maximize the efficient use of project management and oversight resources on Multimodal-Funded Major Capital Projects by eliminating redundant administrative procedures and focusing resources on complex real property acquisitions. A risk-based approach means that FRA and FTA will identify, assess, and understand on a case-by-case basis the risk that a Project or a particular acquisition may not meet URA requirements. FRA and FTA will use this approach instead of reviewing each facet of all real property acquisitions. An evaluation of risk will be determined at the discretion of the Cognizant Federal Agency, which may include such factors as: the number and complexity of transactions; the number and complexity of relocations; the level of sophistication of the grantee's acquisition team; or the grantee's record of URA compliance. The level of risk will inform the number of files to be reviewed and the timing of review during the period of acquisition. Under this approach, FRA and FTA will take appropriate oversight and mitigation measures in accordance with the level of identified risk, or due to direct evidence of non-compliance with the URA. FRA and FTA may adjust the level of oversight throughout the acquisition process based on the results of previous file reviews. In practice, FRA and FTA intend to allow Project Sponsors and Project Partners to proceed with acquisition once a RAMP and a scope and schedule of review have been reviewed and the Cognizant Agency has made a written determination that the project RAMP is sufficiently developed. FRA and FTA will use a risk-based oversight management strategy to review only those files that it believes necessary to ensure a low risk of URA non-compliance.

**5. If the Project Sponsor, or Lead Project Sponsor (if applicable), will be chosen prior to the award of federal funding how will Project Partners know which recipient is contributing the most federal funding to the Project to choose a Project Sponsor?**

Project Partners will need to make project development and management decisions based on anticipated streams of federal funding. The funding programs and requirements for Major Capital Projects (i.e., projects that cost \$300 million or more) are not new, are predictable, longstanding, and generally understood by all parties. Recipients should make reasonable judgments regarding which Project Partner will be the Project Sponsor based on their own reasonable estimations on what Federal Funds are available and will be secured.

**6. How early in project development should the Project Sponsor approach the Cognizant Federal Agency for guidance prior to the initiation of NEPA?**

Project Sponsors are expected to engage in discussions with Federal agencies regarding potential projects in a timely manner. Though not always, the NEPA lead federal agency will most likely also become the Cognizant Federal Agency for URA purposes. Therefore, if prior to the initiation of NEPA, the Project Sponsor anticipates that they may request

both FRA and FTA funding for the subject project, the Project Sponsor should engage each agency about the appropriateness of the subject project for the anticipated source of funds. Once engaged by a Project Sponsor and notified that the Project Sponsor intends to proceed under the Real Property SOP, FRA and FTA will confirm the appropriateness of federal funding for the intended project and designate a Cognizant Federal Agency for the purpose of URA compliance and in accordance with the Multimodal Real Property SOP.

**7. When should the Project Sponsor begin developing the RAMP?**

It is never too early for a Project Sponsor to begin developing the RAMP. Once the real property interests have been defined for the Multimodal-Funded Major Capital Project (e.g., through the planning process or through scoping associated with NEPA), Project Sponsors should have an approximation of the real property interests necessary to complete the Project. Project Sponsors are encouraged to have a draft RAMP assembled and prepared at the time the lead Federal agency is making its final NEPA determination so that the RAMP and real property acquisition activities can be implemented immediately following the NEPA determination.

**8. Can a Project Sponsor acquire real property prior to the Cognizant Agency RAMP determination?**

Any real property acquired for a Multimodal-Funded Major Capital Project prior to RAMP evaluation by the Cognizant Federal Agency must meet all FRA and FTA requirements, independently, including compliance with NEPA. Project Sponsors and Project Partners that do not acquire real property in accordance with the Real Property SOP RAMP requirements, or do not simultaneously follow FRA and FTA real property acquisition and NEPA requirements prior to acquisition, risk the reimbursement eligibility of the cost of the acquisition and the possibility that the real property acquired may not be eligible for use.

**9. What is a post-acquisition file review?**

The Cognizant Federal Agency will review acquisition files (including, if applicable, deeds, lease agreements, purchase and sale agreements, and correspondence) to confirm compliance with the URA after the project sponsor has acquired an interest in real property for a project. Depending on the number and complexity of real property interests to be acquired, and consistent with the risk-based review strategy discussed above, the Cognizant Federal Agency may conduct a file review after all property for a project has been acquired or at intervals during the period of acquisition (i.e., an initial post-acquisition file review after the project sponsor acquires the first third of property interests for a project, a second file review after the second third of property interests are acquired, and so on). The Cognizant Federal Agency may choose to review all acquisition files or a risk-based sample. File reviews will include relocation file reviews for projects that require displacements of persons or businesses.

**10. How many files will the Cognizant Federal Agency review during the Project?**

As described above, the Cognizant Federal Agency will use a risk-based approach to identify which real property acquisition files, and how many real property acquisition files, need to be reviewed to confirm compliance with the URA.

Depending on the circumstances, the Cognizant Federal Agency may increase or decrease the number of acquisition files for review throughout the project lifecycle. A project file review indicating that the Project Sponsor has not complied with the URA will most likely lead to increased oversight and additional acquisition file reviews. On the other hand, acquisition file reviews indicating the Project Sponsor is URA compliant may lead the Cognizant Federal Agency to conduct fewer acquisition file reviews. In all cases, the Cognizant Federal Agency will use a risk-based approach to assess the need to use additional oversight measures or mitigation to ensure URA compliance across the project.

**11. What if the Project Sponsor identifies additional real property needs or other changes that are not reflected in the project RAMP?**

If the Project Sponsor identifies additional real property needs or other changes in its acquisition plan that were not included in the RAMP that was evaluated by the Cognizant Federal Agency, the Project Sponsor should notify the Cognizant Federal Agency as soon as possible. The Project Sponsor should also update its RAMP accordingly and submit the revised RAMP to the Cognizant Federal Agency for review. The Project Sponsor may not acquire property that is not identified in the project RAMP or in an approved environmental review document, such as an EIS.

**12. What if a project becomes a Multimodal-Funded Major Capital Project only after acquisition has begun?**

If a project is not identified as an eligible Multimodal-Funded Major Capital Project until after the Project Sponsor and Project Partners have already begun real property acquisition, the Project Sponsor will need to immediately coordinate with both FRA and FTA to initiate the SOP, including identification of a Cognizant Federal Agency, development of a RAMP that is compliant with the SOP, and the initiation of real property file reviews for prospective acquisitions. It is in the best interest of the Project Sponsor to approach FRA and FTA as soon as it is reasonably foreseeable that the project will be a Multimodal-Funded Major Capital Project to avoid any unnecessary delays.