

## **DEPARTMENT OF TRANSPORTATION**

Federal Transit Administration

### **Notice of Availability of Emergency Relief Funds in Response to Hurricane Sandy**

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice of availability of emergency relief funds.

**SUMMARY:** The Federal Transit Administration (FTA) announces the availability of funds under the Public Transportation Emergency Relief Program (Emergency Relief Program) for States, local governmental authorities, Indian tribes and other FTA recipients impacted by Hurricane Sandy, which affected mid-Atlantic and northeastern states in October 2012, and particularly devastated transit operations in New Jersey and New York. FTA will distribute these funds in a manner consistent with the eligibility requirements of this program on a non-competitive basis, subject to the priorities set forth below.

The Disaster Relief Appropriations Act of 2013 (Pub. L. 113-2) was enacted on January 29, 2013, and provides \$10.9 billion for FTA's Emergency Relief Program for recovery, relief and resiliency efforts in areas affected by Hurricane Sandy. The law provides that not more than \$2 billion shall be made available no later than March 30, 2013. The remainder of the appropriated funds shall be made available only after FTA enters into a Memorandum of Agreement with the Federal Emergency Management Agency (FEMA) as required by section 20017(b) of the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21, Pub. L. 112-141), and FTA issues interim regulations for the Emergency Relief Program, both of which are underway.

MAP-21 authorized the Emergency Relief Program at 49 U.S.C. 5324. With the authorization of this program, Congress provided FTA with primary responsibility for reimbursing emergency response and recovery costs after an emergency or major disaster that

affects public transportation systems. The Emergency Relief Program allows FTA to make grants for eligible public transportation capital and operating costs in the event of a natural disaster, such as a hurricane, that affects a wide area. Beginning in late October, President Obama issued major disaster declarations for the following States: Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, and West Virginia, as well as the District of Columbia. Numerous counties in these States have been designated as eligible for FEMA assistance under the major disaster declarations. Public transportation agencies in the affected areas as defined by these Presidential declarations, including any declarations related to Hurricane Sandy made after the date of this notice, are eligible for Emergency Relief funding.

This notice announces grant funding for the \$2 billion made available immediately by the Disaster Relief Appropriations Act to States, local governmental authorities, Indian tribes, and other FTA grant recipients that provide public transportation service in the above impacted States for reimbursement of capital costs to repair, reconstruct, or replace equipment and facilities of a public transportation system that has suffered serious damage as a result of Hurricane Sandy. In addition, costs eligible for reimbursement include emergency operating costs incurred for evacuations, rescue operations, moving rolling stock to higher ground in order to protect it from storm surges, temporary public transportation service, and reestablishing, expanding or relocating public transportation service before, during, or after Hurricane Sandy.

FTA has identified three categories of projects for funding for this notice: Category One projects will reimburse eligible expenses affected FTA recipients incurred and disbursed on or before January 29, 2013, in preparation for or response to Hurricane Sandy. Category Two projects will fund existing contractual commitments and contracts for which an affected recipient

issued requests for proposals or invitations to bid for hurricane response and recovery projects on or before January 29, 2013. Category Three projects will fund ongoing force account work for hurricane response and recovery for which the recipient can submit documentation showing the expense was in the recipient's budget on or before January 29, 2013.

The application process will occur in two stages. First, applicants will submit proposals requesting reimbursement of eligible costs for the categories of projects described in this notice. Since funds must be made available no later than March 30, 2013, applications for funding must be submitted between the date of publication of this notice and [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER] through [GRANTS.GOV](http://GRANTS.GOV). FTA encourages affected recipients to submit their requests for reimbursement expeditiously, as FTA intends to allocate funds on a rolling basis. Second, upon allocation of funds, FTA will notify recipients that they can enter a grant application in FTA's Transportation Electronic Award Management system (TEAM). Subsequent to receipt of applications for the above project categories, and prior to March 30, 2013, FTA will issue a notice in the [Federal Register](#) showing the allocation of the initial \$2 billion.

Prior to the Disaster Relief Appropriations Act, affected recipients may have received funding from FEMA for operating or capital costs incurred in response to the hurricane. Section 5324(d) of title 49 United States Code provides that a grant awarded under section 5324 may be made only for expenses that are not reimbursed under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act, 42 U.S.C. 5121-5207). Accordingly, FTA will not fund project expenses that FEMA has already funded. Additionally, prior to the Disaster Relief Appropriations Act, affected recipients may have received insurance proceeds to repair or replace damaged capital items. FTA will not fund project expenses for which a recipient has

already received insurance proceeds. Affected recipients may apply for Emergency Relief funds in advance of expected insurance proceeds; when the affected recipient receives those insurance proceeds, the funds must be applied to an Emergency Relief grant to offset the Federal share.

This notice includes a description of eligible projects, the criteria FTA will use to identify projects for funding, and a description of how to apply for funding. This announcement is available on the FTA website at: <http://www.fta.dot.gov>. A synopsis of the funding opportunity will be posted in the FIND module of the government-wide electronic grants Web site at <http://www.GRANTS.GOV>. FTA intends to announce funding allocations on a rolling basis and will notify applicants directly of allocations made under the program. In addition, FTA will announce final allocations on the FTA Web site.

Pursuant to the requirement in the Disaster Relief Appropriations Act that FTA publish interim regulations before additional funds beyond the initial \$2 billion will be available, FTA is in the process of drafting interim regulations for the Emergency Relief Program. If FTA subsequently establishes criteria or conditions for grants made under the Emergency Relief Program that are different from those in this notice of availability of emergency relief funds, the different criteria or conditions will not be applied retroactively to applications submitted or grants awarded consistent with this notice, unless the change benefits the applicant.

**DATES:** Since funds must be made available no later than March 30, 2013, complete proposals requesting reimbursement of eligible costs must be submitted between the date of publication of this notice and [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] by 11:59 p.m. EST. All proposals must be submitted electronically through the [GRANTS.GOV](http://www.GRANTS.GOV) “APPLY” function. Any prospective applicant intending to submit a proposal should initiate the process of registering on the [GRANTS.GOV](http://www.GRANTS.GOV) site immediately to

ensure completion of registration before the submission deadline. Instructions for submitting a proposal can be found on FTA's Web site at <http://www.fta.dot.gov> and in the "FIND" module of [GRANTS.GOV](http://www.grants.gov).

**FOR FURTHER INFORMATION CONTACT:** Contact the appropriate FTA Regional Office found at <http://www.fta.dot.gov> for application-specific information and other assistance needed in preparing a complete proposal or TEAM grant application. For program-specific questions about applying for the funds as outlined in this notice, please contact Adam Schildge, Office of Program Management, 1200 New Jersey Ave, SE, Washington, DC 20590, phone: (202) 366-0778, or e-mail, [Adam.Schildge@dot.gov](mailto:Adam.Schildge@dot.gov). For legal questions, Bonnie Graves, Office of Chief Counsel, same address, phone: (202) 366-4011, or e-mail, [Bonnie.Graves@dot.gov](mailto:Bonnie.Graves@dot.gov).

**SUPPLEMENTARY INFORMATION:**

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**I. Overview of FTA Public Transportation Emergency Relief Program as it Applies to Hurricane Sandy Relief**

A. Authority

Section 5324(a)(2) of title 49, United States Code, defines an “emergency” as follows:

The term ‘emergency’ means a natural disaster affecting a wide area (such as a flood, hurricane, tidal wave, earthquake, severe storm, or landslide) or a catastrophic failure from any external cause, as a result of which—

- (A) the Governor of a State has declared an emergency and the Secretary has concurred; or
- (B) the President has declared a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

Section 5324(b) of title 49, United States Code, authorizes the Secretary to make awards for FTA’s Emergency Relief Program as follows:

General authority.—The Secretary may make grants and enter into contracts and other agreements (including agreements with departments, agencies, and instrumentalities of the Government) for—

- (1) capital projects to protect, repair, reconstruct, or replace equipment and facilities of a public transportation system operating in the United States or on an Indian reservation that the Secretary determines is in danger of suffering serious damage, or has suffered serious damage, as a result of an emergency; and
- (2) eligible operating costs of public transportation equipment and facilities in an area directly affected by an emergency during—
  - (A) the 1-year period beginning on the date of a declaration described in subsection (a) (2); or
  - (B) if the Secretary determines there is a compelling need, the 2-year period beginning on the date of a declaration described in subsection (a)(2).

In addition, section 5324(d) provides that a grant awarded under section 5324 shall be subject to the terms and conditions the Secretary determines are necessary; and made only for expenses

that are not reimbursed under the Stafford Act. Accordingly, FTA will not fund project expenses that FEMA has already funded.

#### B. Policy Priorities for Hurricane Sandy Relief

The Emergency Relief Program is intended to assist recipients and subrecipients in restoring public transportation service and in repairing and reconstructing public transportation assets to a state of good repair as expeditiously as possible following an emergency or major disaster.

With regard to the \$2 billion available immediately under the Disaster Relief Appropriations Act of 2013, FTA has identified three categories of projects: Category One projects will reimburse eligible expenses already incurred and disbursed by affected recipients on or before January 29, 2013, in preparation for or response to Hurricane Sandy. Category Two projects will fund existing contractual commitments and contracts for which an affected recipient issued requests for proposals (RFP) or invitations to bid (ITB) for hurricane response and recovery projects on or before January 29, 2013, as evidenced by a signature/date page for each contract, RFP and ITB. Category Three projects will fund ongoing force account work for hurricane response and recovery for which the recipient can submit documentation, such as Board approval or budget documents, showing the expense was in the recipient's budget on or before January 29, 2013.

Section 5324(b) provides that funds are available for capital projects to “protect ... equipment and facilities of a public transportation system ... the Secretary determines is in danger of suffering serious damage.” Steps taken to protect equipment and facilities in preparation or response to Hurricane Sandy are eligible expenses under this notice. However, FTA has prioritized recovery and response activities for the first \$2 billion of the funds available in the Disaster Relief Appropriations Act. Therefore, projects related to reducing the risk of

damage from future disasters in areas impacted by Hurricane Sandy are not eligible for funding under this notice, but will be eligible in future notices.

In the event the total costs of the three categories of projects identified in this notice do not reach \$2 billion, FTA reserves the right to fund additional recovery and response projects identified by affected recipients, without issuing a supplemental notice of availability of emergency relief funds.

### C. Definitions for use in this notice

The following terms are used in this notice:

Applicant. An entity that operates or allocates funds to operate public transportation service and applies for a grant under 49 U.S.C. 5324.

Affected recipient. An FTA recipient that operates public transportation service in an area impacted by Hurricane Sandy.

Emergency. A natural disaster affecting a wide area or a catastrophic failure from any external cause, as a result of which: (a) the Governor of a State has declared an emergency and the Secretary of Transportation has concurred; or (b) the President has declared a major disaster under the Stafford Act. 49 U.S.C. 5324.

Emergency operations. The net project cost of temporary service that is outside the scope of an affected recipient's normal operations, including but not limited to: evacuations; rescue operations; moving rolling stock to higher ground in order to protect it from storm surges; additional bus or ferry service to replace inoperable rail service or to detour around damaged areas; returning evacuees to their homes after Hurricane Sandy; and the net project costs related to reestablishing, expanding, or relocating public transportation service before, during, or after Hurricane Sandy.



Emergency repairs. Those repairs undertaken immediately before, during, or following Hurricane Sandy for the purpose of:

- (1) Minimizing the extent of the damage,
- (2) Protecting remaining facilities, or
- (3) Restoring service.

Heavy maintenance. Work usually done by a recipient or subrecipient in repairing damage normally expected from seasonal and occasionally unusual natural conditions or occurrences, such as routine snow removal, or debris removal from seasonal thunderstorms. This may include work required as a direct result of a disaster, but which can reasonably be accommodated by a recipient or subrecipient's maintenance, emergency or contingency program.

Major Disaster. Any natural catastrophe (including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Stafford Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby. 42 U.S.C. 5122.

Net project cost. The part of a project that reasonably cannot be financed from revenues. 49 U.S.C. 5302.

Permanent repairs. Those repairs undertaken following the occurrence of Hurricane Sandy for the purpose of repairing, replacing or reconstructing seriously damaged public transportation system elements, including rolling stock, equipment, facilities and infrastructure, as necessary to restore the elements to a state of good repair.

Recipient. An entity that operates or allocates funds to operate public transportation service and receives federal transit funds directly from FTA.

Serious damage. Heavy, major or unusual damage to a public transportation facility that severely impairs the safety or usefulness of the facility. Serious damage must be beyond the scope of heavy maintenance.

Subrecipient. An entity that operates public transportation service and receives FTA funding through a recipient.

## **II. Emergency Relief Program Information for Hurricane Sandy Relief**

### A. Description and Purpose

For purposes of this notice, eligible activities include eligible emergency operating costs and capital projects to repair, reconstruct, or replace equipment and facilities of a public transportation system that the Secretary determines has suffered serious damage as a result of Hurricane Sandy, including projects undertaken prior to the storm to minimize or prevent serious damage. Section 5324 funds are in addition to a recipient's formula funds and the receipt of section 5324 funds does not preclude the receipt of funds from FEMA.

### B. Pre-award Authority

FTA grants pre-award authority to affected recipients for expenses incurred in preparation for Hurricane Sandy (e.g., evacuation, relocation, protecting and safeguarding assets) and for immediate disaster-response and recovery expenses incurred as a result of Hurricane Sandy. Pre-award authority allows affected recipients to incur certain project costs before grant approval and retain the eligibility of those costs for subsequent reimbursement after grant approval.

The conditions under which pre-award authority may be utilized are specified below:

- (i) Pre-award authority is not a legal or implied commitment that the subject project will be approved for FTA assistance or that FTA will obligate Federal funds. Furthermore, it is not a legal or implied commitment that all items undertaken by the applicant will be eligible for inclusion in the project.
- (ii) All FTA statutory, procedural, and contractual requirements must be met, except as provided for the three project categories in this notice. See section II.D of this notice.
- (iii) The recipient must take no action that prejudices the legal and administrative findings that the Federal Transit Administrator must make in order to approve a project.
- (iv) The Federal amount of any future FTA assistance awarded to the recipient for the project will be determined on the basis of the overall scope of activities and the prevailing statutory provisions with respect to the Federal/non-Federal match ratio at the time the funds are obligated.
- (v) When a grant for the project is subsequently awarded, the Financial Status Report in TEAM-Web must indicate the use of pre-award authority.

In addition to the pre-award authority described above, affected recipients are permitted to submit grant amendments for existing section 5307 and 5311 grants in order to utilize available unexpended balances for eligible disaster-related project costs. Use of formula funds for these purposes is at the discretion of the affected recipient. Section 5324 funds may not be used to replenish formula funds spent in response to an emergency.

### C. Eligibility Information

#### 1. Eligible Applicants

FTA recipients affected by Hurricane Sandy, including States, local governmental authorities, and Indian tribes that provide public transportation service may apply for section

5324 Emergency Relief funds on behalf of themselves and their subrecipients. As of the date of this notice, the President has declared a major disaster for the following States: Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, and West Virginia, as well as the District of Columbia. The affected transit system must be located in or serving an area that was impacted by Hurricane Sandy, as defined by the presidential declaration of major disaster or declaration of emergency for that State. See <http://www.fema.gov/disasters/>. In addition, public transportation agencies in areas that receive a major disaster declaration related to Hurricane Sandy after the date of this notice are eligible for Emergency Relief funding.

Entities that provide public transportation service and are not current recipients of FTA funding may be eligible to receive Emergency Relief funding as a subrecipient of an FTA recipient. These entities should contact the appropriate FTA Regional Office, the contact information of which is available at [www.fta.dot.gov](http://www.fta.dot.gov), to find a direct FTA recipient in their area to apply on their behalf.

## 2. Eligible Costs

### New York, New Jersey and Connecticut Operating Assistance

On October 31, 2012, the President amended the cost-sharing arrangements for the States of New York, New Jersey and Connecticut regarding Federal funds provided under the authority of the Stafford Act as follows:

I authorize a one hundred percent (100%) Federal cost share for ten days for emergency power restoration assistance and emergency public transportation assistance, including direct Federal assistance, for those areas within counties designated for Public Assistance [in New York, New Jersey and Connecticut]. I authorize this cost-share adjustment beginning October 30, 2012 through November 9, 2012.

On November 9, 2012, the President authorized continuation “until 11:59 p.m. on Wednesday, November 14, 2012, of the 100 percent Federal cost share for emergency power restoration assistance and emergency public transportation assistance (including emergency protective measures to secure public transportation infrastructure), including direct Federal assistance, for those areas within counties designated for Public Assistance [in New York, New Jersey and Connecticut].”<sup>1</sup>

Section 5324 provides that the Federal share for operating expenses and capital projects for the Emergency Relief Program is 80 percent; however, the Secretary may waive, in whole or in part, the non-Federal share. Therefore, consistent with the President’s authorization and what FEMA would fund under section 419 of the Stafford Act (Emergency Public Transportation), FTA will fund the net project costs of emergency operations in specified counties in New York,

<sup>1</sup> See the following Federal Register notices for details of the authorizations:

New York adjustment: Amendment No. 1 to Notice of a Major Disaster Declaration, 77 FR 66862 (Nov. 7, 2012), *available at* <http://www.gpo.gov/fdsys/pkg/FR-2012-11-07/pdf/2012-27269.pdf>.

New York extension: Amendment No. 4 to Notice of a Major Disaster Declaration, 77 FR 73489 (Dec. 10, 2012), *available at* <http://www.gpo.gov/fdsys/pkg/FR-2012-12-10/pdf/2012-29652.pdf>.

New Jersey adjustment: Amendment No. 1 to Notice of a Major Disaster Declaration, 77 FR 66861 (Nov. 7, 2012), *available at* <http://www.gpo.gov/fdsys/pkg/FR-2012-11-07/pdf/2012-27273.pdf>.

New Jersey extension: Amendment No. 5 to Notice of a Major Disaster Declaration, 77 FR 73488 (Dec. 10, 2012), *available at* <http://www.gpo.gov/fdsys/pkg/FR-2012-12-10/pdf/2012-29654.pdf>.

Connecticut adjustment: Amendment No. 1 to Notice of a Major Disaster Declaration, 77 FR 66860 (Nov. 7, 2012), *available at* <http://www.gpo.gov/fdsys/pkg/FR-2012-11-07/pdf/2012-27275.pdf>.

Connecticut extension: Amendment No. 2 to Notice of a Major Disaster Declaration, 77 FR 73487 (Dec. 10, 2012), *available at* <http://www.gpo.gov/fdsys/pkg/FR-2012-12-10/pdf/2012-29656.pdf>.

New Jersey and Connecticut from October 30 to November 14, 2012, at a 100 percent Federal share, that FEMA has not already funded. All of New Jersey's counties qualify for the 100 percent Federal share under this authorization. In New York, the following counties may apply for emergency operating assistance at a 100 percent Federal share: Bronx, Kings, Orange, Nassau, New York, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, Ulster, and Westchester. See <http://www.fema.gov/disaster/4085/affected-counties>. In Connecticut, the following counties may apply for emergency operating assistance at a 100 percent Federal share: Fairfield, Litchfield, Middlesex, New Haven, New London, Tolland, Windham and the Mashantucket Pequot and Mohegan Tribal Nations in New London County. See <http://www.fema.gov/disaster/4087/affected-counties>. The President's authorizations include the costs of emergency public transportation service provided in affected counties in New York, New Jersey and Connecticut for that 16-day period. Affected recipients in New York, New Jersey and Connecticut may apply for the full net project cost of temporary service that is outside the scope of the affected recipient's normal operations provided between October 30 and November 14, 2012, including but not limited to: evacuations; rescue operations; moving rolling stock to higher ground in order to protect it from storm surges; additional bus or ferry service to replace inoperable rail service or to detour around damaged areas; returning evacuees to their homes after the hurricane; and the net project costs related to reestablishing, expanding, or relocating public transportation service before, during, or after the hurricane. Lost revenue as a result of Hurricane Sandy is not an eligible cost.

In addition, the costs incurred for any emergency protective measures to secure public transportation infrastructure taken between October 30 and November 14, 2012, are eligible for 100 percent Federal share if not already funded by FEMA.

### Other Operating Assistance

Section 5324 provides that the Federal share for operating expenses and capital projects for the Emergency Relief Program is 80 percent; however, the Secretary may waive, in whole or in part, the non-Federal share. The Administration's December 7, 2012, request to Congress for emergency relief funds acknowledged that the "level of damage caused by Hurricane Sandy is expected to meet the regulatory threshold necessary to increase the Federal share of most disaster programs to 90 percent."<sup>2</sup> Therefore, the Secretary has determined that the Federal share for operating and capital projects undertaken in response to Hurricane Sandy will be 90 percent, thus waiving part of the non-Federal share. The following operating costs are eligible at a 90 percent Federal share: the net project cost of temporary service that is outside the scope of an affected recipient's normal operations, including but not limited to: evacuations; rescue operations; moving rolling stock to higher ground in order to protect it from storm surges; additional bus or ferry service to replace inoperable rail service or to detour around damaged areas; returning evacuees to their homes after the hurricane; and the net project costs related to reestablishing, expanding, or relocating public transportation service before, during, or after the hurricane. The non-Federal share of the net project cost may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

FTA notes that some States entered into agreements or mission assignments with FEMA to fund operating costs immediately after the storm. If those States are seeking operating funds from FTA and have already received funding from FEMA, they must submit a copy of the agreement with FEMA, including the scope of the agreement, the amount funded, and the dates that FEMA agreed to fund operating costs, as well as the scope and dates of service for which the

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[http://www.whitehouse.gov/sites/default/files/supplemental\\_december\\_7\\_2012\\_hurricane\\_sandy\\_funding\\_needs.pdf](http://www.whitehouse.gov/sites/default/files/supplemental_december_7_2012_hurricane_sandy_funding_needs.pdf)

applicant is seeking FTA funding, in order to ensure that an application submitted to FTA for project costs has not already been funded by FEMA. FTA will not fund project expenses for which a recipient has already received insurance proceeds. Loss of operating revenue is not an eligible expense. However, the cost of providing fare-free emergency public transportation service in the days immediately following the storm is eligible if FEMA has not already funded the service.

### Capital Projects

As stated above, FTA will fund all projects eligible for the Emergency Relief Program in response to Hurricane Sandy at a 90 percent Federal share. The non-Federal share of the net project cost may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital. Eligible capital projects include those projects to repair, reconstruct, or replace equipment and facilities of a public transportation system that has suffered serious damage as a result of Hurricane Sandy.

It is not the intent of the Emergency Relief Program to provide substitute funding for regular capital maintenance that is not a result of an emergency or major disaster. Therefore, heavy maintenance and projects for which funds were obligated in a grant prior to Hurricane Sandy are not eligible expenses under the Emergency Relief Program. Further, projects funded by the Federal Highway Administration's Emergency Relief program are not eligible for FTA funding.

Both emergency repairs and permanent repairs are eligible for Emergency Relief funding. When repairing or replacing facilities and infrastructure damaged or destroyed by Hurricane Sandy, the following activities are eligible for Emergency Relief funding: 1) replacement of older features with new ones; 2) incorporation of current design standards; 3) replacement of a



destroyed facility at a different location when replacing at the existing location is not practical or feasible; and 4) additional required features resulting from the NEPA process.

Grants awarded with section 5324 funds, as well as section 5307 and 5311 grants made for emergency relief purposes, may be made only for expenses that are not reimbursed by another Federal agency or by insurance proceeds. If an applicant has already received funding from another Federal agency, the applicant may not apply for FTA emergency relief funding for the same project expenses. However, partial compensation for a loss by other sources will not preclude FTA participation for the part of the loss not compensated. For example, insurance proceeds may only cover the remaining Federal interest of a vehicle that was destroyed before the end of its useful life, and not the cost to replace that vehicle. Consistent with FTA Circular 5010.1D, FTA may participate in the replacement cost beyond the insurance proceeds. Rolling stock and other equipment used in public transportation that was damaged or destroyed before the end of its useful life may be replaced with new rolling stock and equipment. FTA advises applicants to review FTA Circular 5010.1D, chapter IV, ([http://www.fta.dot.gov/legislation\\_law/12349\\_8640.html](http://www.fta.dot.gov/legislation_law/12349_8640.html)) for additional information on how to determine the remaining Federal interest and how to apply insurance proceeds to the cost of replacing the damaged or destroyed property.

Any compensation for damages or insurance proceeds recovered by the recipient or subrecipient for repair or replacement of the public transit equipment or facility must be used upon receipt to reduce emergency relief fund participation in the project. In other words, affected recipients may apply for Emergency Relief funds in advance of expected insurance proceeds; when the affected recipient receives those insurance proceeds, the funds must be applied to an Emergency Relief grant to offset the Federal share.

As with operating expenses, if a recipient has already received FEMA funding for repairs and replacement of capital assets, and also intends to apply for FTA funding, the recipient must submit a copy of any agreement with or funding request from FEMA, including the scope of the agreement or funding request (e.g., a list of projects), the amount funded, and the disposition of the request.

### 3. Ineligible Activities

The following expenses are not eligible under the emergency relief program:

- (1) Heavy maintenance;
- (2) Project costs for which the recipient has received funding from another Federal agency;
- (3) Project costs for which the recipient has received funding through payments from insurance policies;
- (4) Projects that change the function of the original infrastructure;
- (5) Projects for which funds were obligated in a grant prior to Hurricane Sandy;
- (6) Reimbursements for lost revenue due to service disruptions caused as a direct result of the hurricane;
- (7) Project costs associated with the replacement or replenishment of damaged or lost material not incorporated into a public transportation system such as stockpiled materials or items awaiting installation; and
- (8) Other project costs FTA determines are not appropriate for the Emergency Relief Program.

Projects included under item (4) above that change the function of the original infrastructure would be projects, for example, that change a bus rapid transit system to light rail, or that replace bus shelters with intermodal facilities, or that significantly upgrade a maintenance facility.

Replacing damaged diesel buses with compressed natural gas buses is eligible under the Emergency Relief Program, but any costs associated with new alternative fueling stations or maintenance facilities is not eligible for Emergency Relief funds. However, those associated costs are eligible under FTA's formula programs, and recipients may use funds apportioned under sections 5307 or 5311 formula funds for those costs.

#### D. Grant Requirements

Section 904(c) of the Disaster Relief Appropriations Act provides that grant funds awarded under the Act must be expended within 24 months following FTA's obligation of funds in a grant. Any unexpended balances remaining in a grant must be returned to FTA 24 months after obligation of grant funds. FTA will include this term in all grants made with funds appropriated by the Disaster Relief Appropriations Act.

Section 5324(d)(1) provides that grants awarded under the Emergency Relief Program to address an emergency shall be subject to the terms and conditions the Secretary determines are necessary. Affected recipients responded quickly to Hurricane Sandy in an effort to restore public transportation service as quickly as possible. For the three categories of projects described in this notice, FTA has determined the following:

1. Planning requirements. Operating and capital projects do not need to be included in a Statewide Transportation Improvement Program (STIP) or a metropolitan Transportation Improvement Program (TIP) in order to be reimbursed by FTA.
2. Buy America. Because of extensive damage to public transportation systems impacted by Hurricane Sandy and the exigent need to rebuild those systems in order to restore service, FTA finds that applying its Buy America requirements at 49 U.S.C. 5323(j) would have resulted in undue delay in service restoration. Therefore, FTA will reimburse

those purchases that are included in projects funded under Categories One, Two, and Three as described in this notice, even if the recipient did not follow FTA Buy America requirements.

3. Procurement and contracting guidelines. Recipients may have extended existing contracts and taken other actions necessary to complete response and recovery projects expeditiously. Therefore, FTA will reimburse existing contractual commitments and contracts for which an affected recipient issued requests for proposals or invitations to bid for hurricane response and recovery projects on or before January 29, 2013, even if the recipient did not follow FTA procurement and contracting requirements.

Amendments to existing contracts and bid requests after January 29, 2013, are subject to all FTA requirements, including procurement and contracting requirements.

The above conditions apply only to this notice and have no applicability to future notices.

Further, these conditions should not be construed as indicative of the conditions FTA may grant in future emergencies or disasters. FTA's Public Transportation Emergency Relief Program was recently authorized by Congress and FTA had not yet had the opportunity to publish guidance or a rule for implementing the program when Hurricane Sandy impacted the eastern seaboard.

Setting the above conditions for this disaster is an acknowledgement that affected recipients had to act quickly in order to restore service and may not have met all FTA requirements when making those efforts. FTA expects that all Federal requirements as outlined in FTA's Master Agreement will apply to all grants made in response to Hurricane Sandy that do not meet the description of the three categories of projects described in this notice.

In the event an affected recipient or subrecipient finds that FTA requirements other than those listed above limit the recipient's or subrecipient's ability to respond to Hurricane Sandy,

the affected recipient or subrecipient may request that applicable administrative requirements be waived in accordance with the emergency relief docket process as outlined below.

Under 49 CFR part 601, subpart D, FTA establishes an emergency relief docket each calendar year. The purpose of the docket is to allow recipients affected by national or regional emergencies to request relief from FTA administrative requirements set forth in FTA policy statements, circulars, guidance documents, and regulations. As stated above, section 5324(d) of title 49, United States Code provides that a grant awarded under section 5324 that is made to address an emergency shall be subject to the terms and conditions the Secretary determines are necessary. Effective with calendar year 2013, recipients affected by an emergency or major disaster may request FTA Administrator determination that certain terms and conditions not apply when the requirement(s) will limit a recipient's or subrecipient's ability to respond to an emergency or major disaster. Recipients must follow the procedures as set forth in 49 CFR part 601, subpart D when requesting such a determination or seeking a waiver of administrative requirements. The docket is available on [www.regulations.gov](http://www.regulations.gov), and the docket number for calendar year 2013 is FTA-2013-0001.

#### E. Application Content and Allocation of Program Funds Under this Notice

##### 1. Application Content

FTA will evaluate applications based on information requested below. FTA encourages applicants to demonstrate the responsiveness of their application with the most relevant information the applicant can provide, regardless of whether FTA has specifically requested such information in this notice. FTA will assess the extent to which the application addresses each of the three criteria below.

There are three project categories for this notice of availability of emergency relief funds: 1) reimbursement for expenses already incurred and disbursed by FTA recipients on or before January 29, 2013; 2) existing contractual commitments and contracts for which an affected recipient issued requests for proposals (RFP) or invitations to bid (ITB) for hurricane response and recovery projects on or before January 29, 2013, as evidenced by a signature/date page for each contract, RFP and ITB; and 3) ongoing force account work for hurricane response and recovery for which the recipient budgeted the expense, as evidenced by Board approval or budget documents, on or before January 29, 2013.

Documentation to Support Emergency Operating Requests. Applications to GRANTS.GOV must include the purpose of the emergency public transportation service provided, which may include: evacuations; rescue operations; moving rolling stock to higher ground in order to protect it from storm surges; additional bus or ferry service to replace inoperable rail service or to detour around damaged areas; returning evacuees to their homes after the hurricane; and the net project costs related to reestablishing, expanding, or relocating public transportation service before, during, or after the hurricane. The application must include the dates, hours, number of buses, ferries, and/or trains, and information relating to fares charged. Only net project costs may be reimbursed.

Documentation to Support Capital Requests. Applications to GRANTS.GOV must include copies of detailed damage assessments to support the request for assistance for capital projects. FTA and FEMA have engaged in a significant effort to conduct damage assessments and validate repair/replacement cost estimates in New York and New Jersey. Specifically, FTA and FEMA have worked with the New York Metropolitan Transportation Authority, the Port Authority for New York and New Jersey, New Jersey Transit, and the New York City Department of

Transportation. When submitting applications for the three categories of projects described in this notice, these agencies may include the damage assessments developed with FTA and FEMA. Typically, a damage assessment involves on-the-ground visits to the damage sites to verify the extent of the damage and to estimate the cost of repairs eligible for Emergency Relief funding. The damage assessment should document: (1) the specific location, type of facility or equipment, nature and extent of damage; (2) the most feasible and practical method of repair or replacement; and (3) the estimated repair and replacement cost.

Other Relevant Items. Applicants must provide supporting documentation showing other sources of funding available, including insurance policies, agreements with FEMA, and any other source of funds available to address the damage resulting from the hurricane. Applicants from all States that have received funding from FEMA for emergency operating expenses and also seek funding from FTA for emergency operating costs must include a copy of the agreement with FEMA, including the scope of the agreement, the amount funded, and the dates that FEMA agreed to fund operating costs, as well as the scope of service and dates for which the applicant is seeking FTA funding. Applicants that have received funding from FEMA for capital projects and also seek funding from FTA for capital projects must include a copy of the agreement with FEMA, including the scope of the agreement, the amount funded, and a list of projects included in the FEMA application or equivalent document. In addition, applicants must provide supporting documentation for Category Two and Category Three projects, including a signature/date page for each existing contract, RFP and ITB; and Board approval or budget documents showing the applicant budgeted ongoing force account work in response to the hurricane on or before January 29, 2013.

## 2. Allocation of Program Funds

FTA will allocate funds on a non-competitive basis for the three categories of eligible expenses described above. The FTA Administrator will determine the final allocation of funding for each applicant after validating damage assessments and cost estimates. FTA reserves the right to request additional information prior to making a determination as to Emergency Relief funding eligibility of any particular project. FTA may also seek clarification from any applicant about any statement in its proposal that FTA finds ambiguous. FTA intends to announce funding allocations on a rolling basis and will notify applicants directly of allocations made under the program. In addition, FTA will announce final allocations on the FTA website.

### **III. Application and Submission Information for this Notice**

#### **A. Application Submission Instructions**

Proposals requesting reimbursement must be submitted electronically through <http://www.GRANTS.GOV> by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] by 11:59 p.m. EST. Mail and fax submissions will not be accepted.

A complete proposal submission will consist of at least two files: (1) The SF 424 Mandatory form (downloaded from [GRANTS.GOV](http://www.GRANTS.GOV)) and (2) the Hurricane Sandy-specific supplemental form found on the FTA website: <http://www.fta.dot.gov/emergencyrelief>. The supplemental form provides guidance and a consistent format for applicants to respond to the information required as outlined in this notice. Once completed, the supplemental form must be placed in the attachments section of the SF 424 Mandatory form.

Applicants must attach the Hurricane Sandy-specific supplemental form to their submission in [GRANTS.GOV](http://www.GRANTS.GOV) to successfully complete the application process. A proposal submission may



contain additional supporting documentation as attachments. Within 24–48 hours after submitting an electronic application, the applicant should receive three email messages from GRANTS.GOV: (1) Confirmation of successful transmission to GRANTS.GOV, (2) confirmation of successful validation by GRANTS.GOV and (3) confirmation of successful validation by FTA. If an applicant does not receive confirmations of successful validation and receives a notice of failed validation or incomplete materials, the applicant must address the reason for the failed validation, as described in the notice, and resubmit before the submission deadline. If making a resubmission for any reason, include all original attachments regardless of which attachments were updated. Complete instructions on the application process can be found on FTA’s website at <http://www.fta.dot.gov/emergencyrelief>. FTA urges applicants to submit their applications at least 72 hours prior to the due date to allow time to receive the validation message and to correct any problems that may have caused a rejection notification.

GRANTS.GOV scheduled maintenance and outage times are announced on the GRANTS.GOV website <http://www.GRANTS.GOV>. Deadlines will not be extended due to scheduled maintenance or outages.

## **B. Proposal Content**

Applicants may submit one proposal which can include multiple projects. Additional projects may be added within the Hurricane Sandy-specific supplemental form by clicking the “add project” button in Section II of the supplemental form.

Information such as applicant name, Federal amount requested, non-Federal match amount, description of areas served, etc. may be requested in varying degrees of detail on both the SF 424 form and supplemental form. All fields are required unless stated otherwise on the forms. Use

both the “Check Package for Errors” and the “Validate Form” validation buttons on both forms to check all required fields on the forms. Ensure that the Federal and non-Federal amounts specified are consistent.

#### **IV. Award Administration**

Once FTA allocates Emergency Relief funds to a recipient, the recipient will be required to submit a grant application electronically via FTA’s Transportation Electronic Award Management system (TEAM). Recipients should work with their FTA Regional Office to develop and submit their application in TEAM so that funds can be obligated expeditiously. Grant applications in TEAM may only include eligible activities under the Emergency Relief program. Upon award, payments to recipients will be made by electronic transfer to the recipient’s financial institution through FTA’s Electronic Clearing House Operation (ECHO) system.

Post-award reporting requirements include submission of the Federal Financial Report and Milestone reports in TEAM consistent with FTA’s grants management Circular 5010.1D, as well as any other reporting requirements FTA determines are necessary.

Issued in Washington, DC, this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

Peter Rogoff  
Administrator