



NOTICE:

Attachment B to this referral transmits questions which should be answered and included with objections based on the Public Employees' Pension Reform Act of 2013, AB 340 (Furutani), Stats. 2012, Chapter 296 (PEPRA). Grant recipients responding to PEPRA objections should also provide answers to the questions. The answers will be used by the Department to determine the sufficiency of PEPRA objections and will contribute to the final determination of the PEPRA issues.

Re: EMPLOYEE PROTECTIONS REFERRAL OF
PENDING FTA GRANT APPLICATION
[Applicant]
[Description]
[Grant Number]

Dear FTA Applicant and Union Representative:

In accordance with Federal transit law, 49 U.S.C. 5333(b), the Department of Transportation has referred to this office the above-captioned grant application(s) and has requested the Department of Labor's (Department) certification that the required employee protective arrangements have been made. As required by the Department's procedural Guidelines, 29 C.F.R. Part 215, as amended by 73 Fed. Reg. 47,046, 47,055 (Aug. 13, 2008),¹ we are providing a copy of this grant application to the labor organization(s) representing transit employees in the service area of the project. These labor organizations are identified on the last page of this referral letter. (A reference copy of the grant application is also being provided to the applicant and/or recipient indicated.)

¹ ? The amendments to the procedural Guidelines are also available online at <http://www.dol.gov/esa/olms/regs/compliance/compltransit.htm>.



In addition to referring the application to the appropriate labor organization(s), this letter serves to notify the applicant of this referral, and to advise the parties how to proceed.

Please review the information below carefully. The Department may certify the pending grant on the terms and conditions indicated under the heading, "Basis of this Referral" unless the Department **receives** written objections **within 15 calendar days** of the date of this referral. **Written objections must be forwarded to the Department by facsimile at (202) 693-1342 OR by e-mail to OLMS-TransitGrant@dol.gov.** Objections must contain sufficient detail for the Department to make a determination of their validity under the criteria set forth at 215.3(d)(3) of the Guidelines.² Objections should be filed as soon as possible within the 15-day period. If objections are filed, you are encouraged to engage in negotiations or discussions with the other party(ies) in an effort to resolve the matters which gave rise to the objection.

Upon receipt of an objection, the Department will review the objection to determine whether it is sufficient. Within 10 days from the deadline for submitting objections, the Department will notify the parties of the status of the objections. If it is determined that objections are sufficient, the parties will be given specific instructions for continued negotiations or discussions which will be limited to issues the Department has identified. **Objections involving PEPPRA may be subject to expedited procedures based on the parties response(s) to the questions included below as Attachment B.**

BASIS OF THIS REFERRAL:³

² Section 215.3(d)(3): "The Department will consider an objection to be sufficient when: (i) The objection raises material issues that may require alternative employee protections under 49 U.S.C. 5333(b); or (ii) The objection concerns changes in legal or factual circumstances that may materially affect the rights or interests of employees."

³ Clarifying revisions have been made to the UPA in the second introductory paragraph, paragraph 21, and the certification terms and conditions in Attachment A. These clarifications highlight the requirement, embodied in the UPA (introductory paragraphs and paragraph 21) and certification letters, that transportation employees in the transportation service area of a project are primary and direct beneficiaries of the protective arrangements



— RECURRING REFERRAL

The Department has previously certified negotiated protective agreements, adopted arrangements, or Departmental determinations that are appropriate for application to the instant project as set forth in 29 CFR 215.3(b)(1). The terms and conditions of that certification are included in Attachment A hereto.



- UPA REFERRAL⁴
There are no previously certified negotiated, adopted or determined protective arrangements to be applied to the pending grant as described in 29 CFR 215.3(b)(1). Accordingly, pursuant to 29 CFR 215.3(b)(2), the Department proposes to apply the terms and

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Office of Labor-Management Standards
Washington, D.C. 20210



conditions of the January 3, 2011 Unified Protective Arrangement



referenced in Attachment A hereto.⁵

Questions with regard to whether a union, and the employees they represent, should be considered a third party beneficiary to the arrangements must be raised during the 15-day review period for this grant, or the Department's certification will specify that the employees, or their representative on their behalf will be considered third party beneficiaries.

As the project representative in the Division of Statutory Programs responsible for processing this certification request, I am available to provide any assistance you may need. I can be reached by phone at (202) 693-1227, by FAX at (202) 693-1342, or by e-mail at Marchant.J@dol.gov.

Sincerely,

XXXXXX

Project Representative

Enclosure

Please Note: All written communications relating to this application are to be copied to all relevant parties including, at a minimum, the parties identified in this referral and the Project Representative identified above. PEPRA OBJECTIONS OR RESPONSES TO PEPRA OBJECTIONS SHOULD INCLUDE ANSWERS TO THE QUESTIONS INCLUDED BELOW AS ATTACHMENT B.

REFERRAL SENT TO:

Grantee/Recipient:

Unions:

U.S. Department of Labor

Office of Labor-Management Standards
Washington, D.C. 20210



Attachment A

PROPOSED TERMS FOR EMPLOYEE PROTECTION CERTIFICATION
DOL REFERRAL OF FTA GRANT
[Insert Grant Number]

with the right to enforce such arrangements.

4 ? This referral is for new applicants, applicants with new unions in the service area, or for applicants which do not have protective arrangements subject to a recurring referral.

5 ? Copies of the January 3, 2011 Unified Protective Arrangement can be accessed on the Department's website at http://www.dol.gov/olms/regs/compliance/transit/6_UPA-01-03-11.pdf or may be obtained by contacting the Department at (202) 693-0126. This arrangement was developed by the Department pursuant to 29 CFR 215.3(b)(2).

Attachment B

Questions for PEPRAs Objections

Provide the start date and expiration date of your collective bargaining agreement, including any extensions, as well as the expiration date of your pension agreement.

For each negotiated pension plan, describe its organization (CalPERS, 1937 County Act, Independent System, other); type (defined benefit, defined contribution, jointly administered "Taft-Hartley," deferred compensation/savings, primary or supplemental); and participation (union employees, all employees, multi-employer, etc.).

Describe, separately for "new employees" (those hired on or after January 1, 2013) and "classic employees" (those hired before January 1, 2013), all pension benefit requirements that will be affected by PEPRAs. Be specific in terms of participation in the plan, vesting schedule, employee contribution levels, pensionable compensation, minimum retirement age, minimum years of service, special circumstance retirement (early, disability, x-years-and-out), pension benefit formulas, and any other requirement or computation for a pension benefit of any kind.

Describe whether PEPRAs will require the negotiation or unilateral imposition of a new level of pension contributions by classic employees on or before January 1, 2018.

Compare the pension benefit levels of each negotiated pension plan with those of PEPRAs. Be specific and show by list or chart dollar amounts of benefits at threshold retirement ages and years of service (those points at which the benefit level would change under the pension plan). Assume a final compensation figure of \$5,000 per month, for sake of illustration.

Enclosed for reference is the Department's determination regarding PEPRAs issues affecting represented employees of the **XX Transit Agency**. This determination forms the legal precedent upon which subsequent situations will be evaluated. Provide any information or analysis of your specific situation which you believe distinguishes it from, or illustrates its similarity to, the **XX Transit Agency** precedent.

OMB Control Number: 1245-XXXX (Expires XX-XX-XXXX). According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information

unless such collection displays a valid OMB control number. Public reporting burden for this collection of information is estimated to average 6 hours per respondent, including composing answers to briefing questions containing the necessary information and sending that complaint to the Department. The obligation to respond to this collection is required to obtain relief, see 29 CFR part 215. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Andrew R. Davis, Chief of the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue N.W., Room N-5609, Washington, DC 20210 or email olms-public@dol.gov, and reference the OMB Control Number: 1245-XXXX (Expires XX-XX-XX)