



DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Fourth Allocation of Public Transportation Emergency Relief Funds in Response to Hurricane Sandy

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: The Federal Transit Administration (FTA) announces the allocation of \$834,612,566 through the Public Transportation Emergency Relief Program (Emergency Relief Program, Catalogue of Federal Domestic Assistance #20.527) for recovery projects to three FTA recipients with estimated damages that exceed the amounts of funding previously made available: the Metropolitan Transportation Authority of New York, the New Jersey Transit Corporation, and the Port Authority of New York and New Jersey. Funds allocated in this notice are in addition to funds allocated on March 29, 2013 (78 FR 19357), May 29, 2013 (78 FR 32296), and November 5, 2014 (79 FR 65762), and brings the total amount of Hurricane Sandy Emergency Relief funds allocated by FTA to date to \$10.088 billion. Of that amount, \$5,196,184,125 has been allocated for emergency response, recovery, and rebuilding projects and \$4,891,883,625 has been allocated for resilience projects, which are designed to protect transit systems in the Hurricane Sandy disaster area from damages associated with future storms. With this notice, FTA has now fully allocated all of the funding made available under the Disaster Relief Appropriations Act of 2013 (Appropriations Act, Pub. L. 113-2). FTA is allocating funds consistent with the requirements of the Appropriations Act, the FTA Emergency Relief Program 49 U.S.C. § 5324, the Final Rule for the Emergency Relief Program, 49 CFR

Part 602, published in the Federal Register on October 7, 2014 (78 FR 23806), and all previously announced FTA policies and procedures for Hurricane Sandy Emergency Relief funding.

In addition, this notice establishes a procedure for recipients to request the reallocation of funding previously allocated for resilience projects to fund eligible disaster recovery expenses in excess of the total amount of funding available from previous allocations, insurance payments, and the expected local cost share. Funds reallocated under this procedure must be used for disaster recovery expenses or be returned to FTA upon completion of the recovery effort. Reallocation requests are subject to the terms and conditions specified in this notice and must be approved by FTA.

Unless specifically revised by this notice, all previously published program policies and requirements associated with Hurricane Sandy recovery and rebuilding funding remain in effect. **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 an FTA grant application. For program-specific questions, 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. For legal questions, contact Helen Serassio, Office of Chief Counsel, same address, phone: (202) 366-1974, or e-mail, Helen.Serassio@dot.gov.

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I. Allocation of Hurricane Sandy Recovery Funding

The FTA Emergency Relief (ER) Program provides FTA with the authority to reimburse emergency response and recovery costs for public transportation systems, including costs for projects to protect systems in danger of future damage (resilience projects), after an emergency or major disaster. The Disaster Relief Appropriations Act provides \$10.9 billion for FTA's Emergency Relief Program for recovery, relief, and resilience efforts in areas affected by Hurricane Sandy. However, as a result of the Balanced Budget and Emergency Deficit Control Act of 2011 (Pub. L. 112-25) for fiscal year (FY) 2013, approximately five percent, or almost \$545 million of the \$10.9 billion, was subject to sequestration and is unavailable for Hurricane Sandy disaster relief, leaving approximately \$10.349 billion available. In addition, \$185 million was transferred to the Federal Railroad Administration (FRA) leaving a balance of \$10.164 billion. FTA has allocated the available funding in multiple tiers for emergency response, recovery and rebuilding, locally-prioritized resilience projects, competitively selected resilience projects, and through direct transfers to other DOT offices.

Purpose of Allocation	Amount Allocated
Response, Recovery and Rebuilding (including \$834 million in this notice)	\$5,196,184,125
Locally-Prioritized Resilience	\$1,300,000,000
Competitive Resilience	\$3,591,883,625
Total Allocations	\$10,088,067,750 ¹

1) An additional \$76,232,250 is available for oversight/administrative expenses for a total of \$10,164,300,000.

With this notice, FTA is allocating the remaining \$834.6 million in available recovery funding on a proportional basis, based on previous FTA recovery allocations and detailed damage assessments submitted by the affected agencies that were prepared in cooperation with

FTA and Federal Emergency Management Administration (FEMA) staff, including recently validated updates to these estimates. The damage assessments completed in the immediate aftermath of Hurricane Sandy estimated a recovery and rebuilding cost of \$5.83 billion. During the summer of 2015, FTA was notified by three of the affected transit agencies that the estimated cost of recovery and rebuilding has increased due to previously unknown latent damages, refinement of the cost estimates for recovery capital projects, and changes in the construction market since the original damage estimates were submitted. FTA required submission of the revised cost estimates by August 14, 2015. Based on those submittals, FTA independently verified the validity of proposed increases, and has determined that the estimated total cost of repairing the damage has increased by approximately \$2.1 billion to a revised total estimated \$7.9 billion.

As this is the final allocation of funds, FTA is allocating these funds proportionally based on the current estimated unfunded recovery need for each agency, which takes into account the current revised estimated damage assessments as well as funds that have previously been allocated. Consistent with previous allocations and program policies, recovery funding allocated in this notice can be used for eligible recovery expenses in accordance with the Emergency Relief program requirements. This includes the recovery costs of transportation assets owned by other entities, to the extent those assets are used for public transportation purposes, and in a proportion consistent with written agreement(s) between the public transit agency and the owner of the asset.

The approximately \$834.6 million allocated in this notice includes approximately \$817 million that was reserved for future allocation and a remaining balance of \$17.473 million from the approximately \$28 million that FTA set aside in the March 29, 2013, Federal Register Notice

of Allocation. Prior to determining the allocation amounts in this notice, FTA solicited requests for outstanding Hurricane Sandy disaster relief needs from other affected transit agencies. Based on the responses received, FTA has determined that there are no remaining disaster recovery needs beyond the three agencies included in this notice.

FEDERAL TRANSIT ADMINISTRATION					
FTA Section 5324 Emergency Relief Program					
Allocations for Hurricane Sandy Recovery, by Agency*					
<u>State(s)</u>	<u>Agency</u>	<u>Discretionary Funding ID (current allocation)</u>	<u>Previous Recovery Allocations</u>	<u>Additional Recovery and Restoration</u>	<u>Total Allocations</u>
NY	New York Metropolitan Transportation Authority	D2016-SAND-003	\$2,896,771,774	\$432,019,737	\$3,328,791,511
NY, NJ	Port Authority of New York and New Jersey	D2016-SAND-004	\$1,073,024,652	\$299,760,847	\$1,372,785,499
NJ	New Jersey Transit Corporation	D2016-SAND-005	\$341,990,757	\$102,831,982	\$444,822,739
Mult.	Other affected agencies		\$49,784,376	\$0	\$49,784,376
	Grand Total		\$4,361,571,559	\$834,612,566	\$5,196,184,125
* Allocation amounts reflect reductions due to sequestration. Recovery funds include capital and operating assistance					

II. Procedure for Reallocation of Resilience Funds for Disaster Recovery

A. Policy

FTA has determined that certain transit agencies have estimated total recovery and rebuilding costs that exceed the amount of funding made available for disaster recovery under the FTA ER Program. These damage estimates have increased due to the discovery of latent damages, refinement to project cost estimates, and changes in the construction market since the original estimates were submitted. The need for Federal assistance has also increased due to the use by recipients of statutory alternatives to local cost sharing and the undetermined status of insurance proceeds. Additionally, FTA has previously allocated funding to these agencies for resilience

projects designed to protect the transit systems from damages associated with future natural disasters; however, a portion of this resilience funding has not yet been obligated or disbursed.

Based on a review of the remaining unfunded disaster recovery needs, FTA will allow recipients the option to request a reallocation of unliquidated resilience funding for their remaining unfunded disaster recovery expenses.

Each agency may request the reallocation of resilience funds up to a maximum amount that is based on most recent damage cost estimates submitted by the agencies as of August 14, 2015, and validated by FTA, insurance payments that have been received to date, and an expectation that agencies will provide a local cost share equal to at least 10 percent of the total cost of Hurricane Sandy disaster recovery. The estimated maximum amount each agency may request to reallocate for FTA ER funding is shown in the table below. However, these amounts may increase or decrease based on additional validated recovery costs and/or the receipt of additional insurance proceeds.

Agency	Estimated Maximum Amount of Resilience Funds that May be Reallocated
MTA-NY	\$800.7 million
Port Authority	\$466.6 million
New Jersey Transit	\$187.6 million

A transit agency's request for reallocation of resilience funds may include eligible repair work to transportation assets not owned by the transit agency, but used by it, if the transit agency provides documentation that: demonstrates that the damage was caused by Hurricane Sandy; that the asset is used for public transportation purposes; and; that the proposed share of the project

cost is consistent with written agreement(s) between the public transit agency and the owner of the asset.

In determining whether to approve a reallocation request, FTA will review the eligibility of the proposed project for Hurricane Sandy recovery funding. The reallocation request must include information sufficient for FTA to make the following determinations:

- The proposed project is a capital recovery project that addresses damage caused directly by Hurricane Sandy.
- The proposed recovery project is documented in previously validated damage estimates (original or revised) or in new documentation demonstrating that the damage was caused by Hurricane Sandy.
- For proposed recovery projects that include costs associated with repairing transportation assets owned by other entities, the applicant must provide documentation showing that the asset is used for public transportation purposes, and that the proposed share of the project cost is consistent with written agreement(s) between the public transit agency and the owner of the asset.
- The proposed recovery project complies with the Appropriations Act, the FTA's Emergency Relief Program Final Rule and applicable FTA guidance.
- If funds will be reallocated from a resilience project for which FTA has disbursed funding, the applicant must demonstrate that that the funds disbursed to date will support a resilience project of independent utility, consistent with the scope of the competitive funding application if applicable.
- The request must also include documentation explaining why the applicant has prioritized the recovery project over the resilience project.

The eligibility of recovery projects for reallocated funding is consistent with previous eligibilities for recovery funding under this program. Funds reallocated under this procedure may only be used for the recovery project or projects listed in the reallocation request.

B. Requirements

Agencies that wish to request a reallocation of resilience funds must provide:

- The name, location, and description of the recovery project(s) for which funds are requested to be reallocated to.
- Documentation identifying the project in the most recent validated Hurricane Sandy damage assessment, or if new, documentation showing that the project is an eligible disaster recovery expense resulting directly from damages caused by Hurricane Sandy. Such documentation may include FEMA draft project worksheets from the period immediately after the disaster, engineering estimates that indicate the source of damages and the scope and projected cost of necessary repair work, or other similar documents.
- A statement why the requested project is a priority over the resilience project losing the funds.
- The source of resilience funds (local priority resilience or competitive resilience) that will be returned to the program, as well as the location and description of any resilience project(s) from which funds will be withdrawn and the status of those projects.
- If applicable, a copy of the subject agreement with a third party entity if the proposed project includes an asset owned by a third party, including the methodology for determining the allocation of costs associated with repairing the relevant asset.
- If FTA funds have been disbursed for a resilience project from which the agency proposes to return funds for reallocation, the application must indicate the amount of

funds not disbursed for the project, the amount of those funds to be retained for additional work on the project, the status of the project, and an explanation of whether or how any funds retained and the disbursed funds will be used to complete a resilience project with independent utility.

All requests for reallocation of funds for recovery projects must be submitted to FTA no later than September 30, 2016. All requests must be submitted through the FTA Emergency Relief docket under FTA-2016-0001. FTA will post the agency response to reallocation requests to the docket.

III. Coordination with the Federal Emergency Management Agency (FEMA)

The Disaster Relief Appropriations Act of 2013 appropriated funding to FTA for transit systems affected by Hurricane Sandy, and a Memorandum of Agreement between FTA and FEMA establishes FTA as the primary payor of expenses incurred by public transportation agencies as a result of a major disaster. FTA and FEMA continue to coordinate on funding for Sandy damages, and FEMA has advised that where FTA has made available funding that by FTA's estimation fully satisfies the Federal share of 90% of the maximum amount of funding needed for public transit disaster recovery expenses required by Hurricane Sandy damage, additional funding from FEMA is not eligible.

IV. Award Administration

All previously published program policies and requirements associated with Hurricane Sandy recovery and rebuilding funding remain in effect.

Issued in Washington, DC.

Carolyn Flowers
Acting Administrator

[FR Doc. 2016-15801 Filed: 7/1/2016 8:45 am; Publication Date: 7/5/2016]