
Appendix I
Active FTA Letters of No
Prejudice

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Appendix I — Active FTA Letters of No Prejudice

FTA Pre-Award Authority

The Federal Transit Administration (FTA) has developed two processes that allow grant recipients to incur costs using non-federal resources in advance of grant approval. These expenditures may subsequently be reimbursed using federal funds (or used as credit toward the required non-federal share) after a grant is approved. These provisions are generally referred to as ‘pre-award authority’.

It is important to note that exercising pre-award authority involves considerable risk: there is no guarantee federal funds will be available or awarded for reimbursement and costs incurred must meet all federal planning, environmental, and procurement requirements (as if federal grant funds are being used) as well as any program-specific requirements that may exist. All expenditures made under pre-award authority are subject to audit and potential disallowance.

Automatic Pre-award Authority

In cases where FTA has determined specific pre-approval is not necessary, recipients may incur costs under ‘automatic’ pre-award authority. The list of eligible activities and conditions precedent for the use of automatic pre-award authority is revised each year and published in the Federal Register as part of FTA’s annual notice of funding apportionments.

Automatic pre-award authority is generally restricted to activities where (1) substantial certainty surrounds the availability of future federal funds, such as 5307 formula funds, or (2) the recipient is pursuing funding support under a process where significant FTA involvement/oversight is involved (e.g. New Starts/Small Starts).

While FTA has continually expanded the list of eligible programs and activities which qualify for automatic pre-award authority, funds transferred from the highway account (CMAQ/STP/etc.) are currently not covered by these provisions.

Letter of No Prejudice (LONP)

In all other cases, specific FTA approval is required before expenses may be incurred using non-federal resources. The approval document issued by FTA is a Letter of No Prejudice (LONP).

LONPs must meet the same conditions as automatic pre-award authority, and will only be issued following completion of the environmental review process.

LONPs are intended to allow *time-sensitive critical-path* project activities to occur using local funds in advance of federal grant funds being available for reimbursement. As such, LONPs expire after a specific period of time, generally limited to five years.

Given this purpose and significant constraints, LONPs are most valuable when a significant local project investment is imminent **and** federal funds are likely to be available to continue project implementation within the five-year period covered by the LONP.

If local funds are not available to make an investment in the project, or if federal funds are not likely to be available within five years of the local investment, an LONP provides little or no value.

The following examples illustrate situations where LONPs are appropriate:

- **Long-lead items:** The time required procure certain long-lead items, such as transit vehicles or proprietary equipment, may necessitate initiating these activities prior to grant approval.
- **Final design:** A recipient may wish to undertake engineering and design activities upon the completion of environmental review so that construction may begin immediately upon grant approval.

Documentation of LONPs in the RTP and TIP

Project sponsors within the Houston-Galveston region have made greater use of FTA pre-award authority, particularly Letters of No Prejudice, over the past few years. In order to ensure the planning requirement conditions for LONP issuance are being satisfied, H-GAC issued a memorandum to transit funding recipients in the region detailing a new process for the treatment of LONPs in the TIP and RTP.

Under this new process, proposed LONPs which represent multi-year capital programs will be considered for inclusion in the RTP. As is the case for roadway projects, documentation of financial responsibility will be required to support the inclusion of an LONP project in the RTP.

As local funding commitments are made or federal grant funds are secured to implement the LONP project, the funded scope elements will be programmed in the TIP. In addition, active and proposed LONPs will be included in an appendix to the TIP for the purpose of facilitating federal approvals and authorizations.

**HOUSTON-GAVLESTON AREA COUNCIL
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ACTIVE FTA LETTERS OF NO PREJUDICE (LONPs)**

LONP ID	Project Title	Total LONP Value
Project Sponsor	LONP Scope	LONP Approved/Expires Env Finding Date
FTA Recipient: City of Conroe		
CON-2012-01	FM 2854 Park & Ride	\$600,147
City of Conroe	Park & Ride facility under IH 45 N at FM 2854. Proposed destinations include Downtown Houston, Greenway Plaza, Texas Medical Center and The Woodlands Mall.	7/5/12 - 7/5/17 6/4/12

MPOID	FY of	Federal	Local	Utilization
FTA Grant ID	Award	Funds	Funds	Under LONP
CON-2012-01 - Total Utilized:				\$0

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LONP ID	Project Title	Total LONP Value
Project Sponsor	LONP Scope	LONP Approved/Expires Env Finding Date
<i>FTA Recipient: City of Houston</i>		
HOU-2012-01	Pedestrian/Bike/Transit Access Improvements	\$32,906,098
City of Houston	Investing in hike/bike/pedestrian infrastructure to increase access to transit	4/30/12 - 4/30/2016 4/3/2012

MPOID	FTA Grant ID	TIP Scope	FY of Award	Federal Funds	Local Funds	Utilization Under LONP
	16011 n/a	CITY OF HOUSTON REGIONAL BIKE/PEDESTRIAN CONNECTIONS TO TRANSIT (TIGER)	2012	\$15,000,000	\$14,889,881	
HOU-2012-01 - Total Utilized:						\$0

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LONP ID Project Sponsor	Project Title LONP Scope	Total LONP Value LONP Approved/Expires Env Finding Date			
<i>FTA Recipient: Gulf Coast Center</i>					
N/A	Texas City Park & Ride Construction	\$2,454,000			
Gulf Coast Center	Construct Park & Ride with 400 auto and 40 bus parking spaces and passenger terminal.	-			
MPOID FTA Grant ID	TIP Scope	FY of Award	Federal Funds	Local Funds	Utilization Under LONP

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Project Sponsor	LONP Scope	LONP Approved/Expires Env Finding Date

FTA Recipient: METRO

METRO-2013-01	Burnett Transit Center Street Access Improvements	\$1,226,000
METRO	Perform engineering and design for street access improvements to the Burnett Transit Center. Project elements may include refinements to grades of existing streets and adjacent intersecting streets; permanent pavement design; curbs and gutters; inlets; sidewalks; ADA curb cuts; street realignment within existing street right-of-way; traffic signals if required; utilities; drainage; bridge structure; and traffic control.	3/12/13 - 3/12/18 12/31/12

MPOID	FTA Grant ID	TIP Scope	FY of Award	Federal Funds	Local Funds	Utilization Under LONP
	13517	CONSTRUCT INTERMODAL TRANSIT TERMINAL (ROADWAY ACCESS, ETC)	2013	\$8,315,532	\$2,078,883	\$1,226,000
METRO-2013-01 - Total Utilized:						\$1,226,000

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LONP ID Project Sponsor	Project Title LONP Scope	Total LONP Value LONP Approved/Expires Env Finding Date			
<i>FTA Recipient: Midtown Mangement District</i>					
N/A	Main Street Pedestrian-Transit Improvement project	\$8,000,000			
Midtown Management District	Reconstruct back of curb infrastructure (sidewalks, curbs, ADA ramps, pedestrian lighting and landscaping)	-			
MPOID FTA Grant ID	TIP Scope	FY of Award	Federal Funds	Local Funds	Utilization Under LONP

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LONP ID Project Sponsor	Project Title LONP Scope	Total LONP Value LONP Approved/Expires Env Finding Date			
<i>FTA Recipient: Upper Kirby District</i>					
N/A	Bissonnet Street Pedestrian and Transit Access Facilities	\$2,385,000			
Upper Kirby District	Reconstruct sidewalks and install pedestrian amenities (lighting, benches, and bus shelters)	-			
MPOID FTA Grant ID	TIP Scope	FY of Award	Federal Funds	Local Funds	Utilization Under LONP

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LONP ID	Project Title	Total LONP Value
Project Sponsor	LONP Scope	LONP Approved/Expires Env Finding Date
FTA Recipient: Westchase Mgmt District		
WMD-2011-01	Westchase Pedestrian/Transit Access and Hike/Bike Project	\$14,761,859
Westchase Mgmt District	Investing in transit/pedestrian and hike/bike infrastructure along various hike and bike trails and pathways and to support alternative mobility access for residents and others in the District.	6/27/11 - 6/27/16 6/27/11

MPOID	FTA Grant ID	TIP Scope	FY of Award	Federal Funds	Local Funds	Utilization Under LONP
	10351	12' WIDE CONCRETE SHARED USE PATH: WESTCHASE DISTRICT	2012	\$3,920,870	\$980,218	\$4,901,088
	TX-STP-2011	TRAIL - NORTH				
WMD-2011-01 - Total Utilized:						\$4,901,088