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CHAPTER VIII. FACILITY CONSTRUCTION AND RENOVATION GUIDELINES

INTRODUCTION

As addressed in **Chapter III** of this manual, the acquisition, construction or renovation of transit facilities including design, engineering, and land acquisition are eligible expenses under the Section 5311 Program. Section 5311 funds may be used to fund up to 80 percent of the net capital cost of the facility improvement or acquisition. Due to the limited funding available in any given fiscal year, INDOT reserves the right to limit the number and type of facility projects to be considered for financial assistance.

Transit facilities are defined as:

- ◆ Facilities that support transit operations, such as administrative buildings, maintenance garages and vehicle storage buildings; and facilities that provide passenger amenities such as bus terminals, stations, shelters and park-and-ride lots.

Facility projects are required to adhere to the same Federal policies that apply to other capital procurements as addressed in the Procurement Section of this Manual. For facility projects, due to their complexity and project variety, there is no single Federal document that provides all the information that is needed to comply with all the regulations. The following FTA documents provide valuable information regarding FTA-assisted facility projects. *(Note that the most recent versions of each of these circulars are 9040.1G, 4220.1F, and 9300.1B, respectively. The links will take you to the FTA Circular page, where you will then click on the appropriate circular and it will take you to the most recent version available at that time.)*

- ◆ FTA Circular 9040.1 – Nonurbanized Area Formula Program Guidance and Grant Application Instructions, available at http://www.fta.dot.gov/legislation_law/13718.html.
- ◆ FTA Circular 4220.1 - Third Party Contracting Guidance, available at http://www.fta.dot.gov/legislation_law/13718.html.
- ◆ FTA Circular 9300.1 - Capital Investment Program Guidance and Application Instructions, available at http://www.fta.dot.gov/legislation_law/13718.html.
- ◆ Best Practices Procurement Manual - Prepared to assist grantee in meeting standards of FTA Circular 4220.1F, available at www.fta.dot.gov - Go to Reports/Publications, click on Other Reports.
- ◆ FTA Construction Project Management Handbook, most recent update September 2009, <http://www.fta.dot.gov/documents/FTA-CONSTRUCTION-PRJT-MGMT-HDBK2009.pdf>.
- ◆ 23 CFR part 771 - Environmental Impact and Related Procedures, available at http://www.fta.dot.gov/documents/N_EPA_reg_clean.pdf.

Project Planning and Implementation

There are three primary types of facility projects: 1) new construction, 2) purchase and renovation/improvement of an existing facility, and 3) renovations/improvements

to existing facilities. Improvements or renovation include expansion, maintenance, repair and remodeling of an existing facility. All facility projects will require an INDOT review of the project plan and/or a Facility Feasibility Study. Further information regarding this requirement is addressed later in this chapter. The required step-by-step process for all facility projects is presented below.

STEP-BY-STEP PROCESS

Step 1: Feasibility Stage

The applicant should hold initial discussions with local governments and other program supporters to determine the need for the proposed project. Local and regional planning documents should be analyzed to determine if the project supports the local goals and objectives. Discussions could include such issues as opportunities for purchasing an existing facility for renovation, availability of land for construction of a new facility, and appropriate opportunities to share the proposed facility with another transit system or government agency. Further, the applicant should document the current facility conditions of the transit system and how the project would improve these conditions, the need for the facility improvement(s), and a description of the proposed facility project.

Step 2: Feasibility Analysis

It is recommended that the transit system director consult with INDOT staff regarding facility needs well in advance of the Section 5311 application period. This will allow time for a determination to be made of the merits of the proposed project, determination of whether the project is considered major or

minor in scope, and enable the applicant to apply for Section 5311 funding.

It is the general policy of FTA to provide financial assistance for transit facilities that are adequate for the applicant's present needs and realistically address future growth. In those situations where land acquisition is required, it may be justifiable to procure enough land to meet future expansion needs.

For those proposed projects that would require considerable new construction such as the construction of a new administrative and maintenance facility or purchasing an existing building for renovation into a transit facility, a Facility Feasibility Study would be required to determine the merits of the project, clearly define the project, and determine its estimated cost. It is important that the current and anticipated spatial needs of a transit system be determined prior to initiating construction. Elements would include the following:

- ◆ A determination of transit demand and other use;
- ◆ An evaluation of existing facilities or sites to satisfy existing and future transit needs;
- ◆ Evaluation and selection of preferred site(s) if a new facility is warranted;
- ◆ Preliminary concept design including space needs, circulation, and facility components;
- ◆ Cost estimate of the transit facility and financing plan; and,
- ◆ Operating cost estimate of new or renovated facility.

An outline of the scope of work for a Facility Feasibility Study is available on the INDOT website in the Forms section at can be found at <http://www.in.gov/indot/2436.htm>. Typically approximately six months should be allowed for completion of the study.

Planning funds are available for preparation of the study at an 80 percent federal participation level. The subrecipient should consult with INDOT staff regarding the need to conduct a Facility Feasibility Study.

At the conclusion of the feasibility step, all project documentation must be submitted to INDOT.

INDOT Oversight Action: At this point in the study process, all project descriptive material, feasibility analyses, and cost estimates must be submitted to INDOT for review and approval. INDOT staff will review the proposed project (or use the services of its technical assistance consultant to critically evaluate the feasibility analysis) and project cost estimates. If the project is deemed feasible and that funding is likely to be available for the project, INDOT will formally authorize the applicant to proceed with the environmental phase of the project.

Step 3: Designation of Project Manager

If INDOT approves a project under Step 2, the applicant at this point must identify a proposed Project Manager who will have responsibility for oversight of the project from concept initial land acquisition (if applicable) to project completion.

This individual must possess the requisite capabilities and/or have the relevant project experience in procurement of architectural/engineering services to bidding and construction management.

If these services do not exist within the applicant's organization, the applicant may utilize the services of other governmental personnel (*e.g.*, a nonprofit operator may utilize the services of a County Engineer). If these services cannot be obtained locally, then the project application must contain a

request to procure these services through a third party contracting arrangement.

INDOT Oversight Action: The applicant must submit a resume and a history of the proposed Project Manager's qualifications for approval to INDOT prior to proceeding to the application phase. INDOT must approve the qualifications of the proposed Project Manager and/or concur in the applicant's decision to procure these services through third party contracting.

Step 4: Project Application

Contingent upon the determination to proceed with the project, the eligible applicant should proceed with development of the project application through the process identified in **Chapter IV** of this manual. The necessary procedures include application for planning funds to conduct a Facility Feasibility Study and/or facility construction funds. Note that if land purchase is required prior to facility construction, it may be necessary to request funds in different phases/stages of the project such as the land acquisition, facility design and construction phases.

Step 5: INDOT Review of the Project Application

INDOT has established the following selection criteria for consideration of facility projects to be recommended for funding with Section 5311 funds.

New Construction

- ◆ Presentation of deed of site ownership by grantee;
- ◆ Condition of existing facility and utility for future needs;
- ◆ Anticipated system growth;
- ◆ Justification for requested size facility;

- ◆ System operational performance;
- ◆ Local financial support of transit system;
- ◆ Local agency support of system;
- ◆ Local/regional transit coordination status;
- ◆ System compliance with federal/state regulations;
- ◆ Impact on system operations;
- ◆ Cost analysis/effectiveness of new facility;
- ◆ Accommodates future expansion needs;
- ◆ Capability of grantee to manage project;
- ◆ Implementation timeline; and
- ◆ Project listed in TIP, if applicable, and STIP

Expansion of Existing Facility

- ◆ Presentation of deed of facility ownership by grantee;
- ◆ Justification for facility expansion;
- ◆ Anticipated system growth;
- ◆ Impact on system operations;
- ◆ Cost effectiveness of expansion;
- ◆ Allows operations to continue during construction;
- ◆ Capability of grantee to manage project;
- ◆ Implementation timeline; and
- ◆ Project listed in TIP, if applicable, and STIP

Renovation/Rehabilitation

- ◆ Presentation of deed of facility ownership by grantee;
- ◆ Structural soundness of existing facility;
- ◆ Justification for facility modification;
- ◆ Cost effectiveness of improvements;
- ◆ Implementation timeline; and
- ◆ Project listed in TIP, if applicable, and STIP

The award of facility project grants will be based on funding availability and INDOT project evaluation criteria.

INDOT Oversight Action: INDOT will take a formal approval action on the project application. Contracts and notice to proceed with implementation will be issued by INDOT, outlining the terms and conditions that will govern the applicant’s implementation of the project.

INDOT authorization and contracting authority will be conducted in phases, as follows:

1. Environmental Assessments
2. Design
3. Construction

A project cannot proceed to a phase unless INDOT has concurred with the actions of the preceding phase.

Step 6: Phase I Site Assessment (optional)

If the proposed project requires the applicant to acquire land in order to construct a new facility, INDOT may request that the applicant conduct a Phase 1 Site Assessment of the preferred property/site. The purpose of this assessment is to identify potential or existing environmental contamination liabilities that may be associated with the site. If such problems are identified with an applicant’s preferred site, it is generally advised that such sites be excluded from consideration for a Federally-assisted transit project under the INDOT Section 5311 program (as mitigation measures may not make the project feasible from a cost perspective).

INDOT Oversight Action: INDOT will take a formal concurrence action on the Phase I Site Assessment report before the grantee/operator may proceed with any land acquisition activities.

Step 7: Environmental Process

FTA's environmental review process has two primary objectives: to fully disclose the probable environmental impacts resulting from a proposed project and to develop measures that will avoid or mitigate adverse environmental effects.

Facility projects, depending on their complexity and location, may have a wide range of environmental effects and, thus, require varying levels of documentation and review.

Due to their relative minor complexity, most facility projects funded through the Section 5311 program do not normally involve significant environmental impacts. These projects are termed "Categorical Exclusions (CEs)" and are therefore excluded from the requirement to prepare an environmental impact statement. Nevertheless, before the Federal Transit Administration can make this recommendation, FTA requires that all projects complete a "Documented Categorical Exclusion Worksheet" which can be found in the Forms Section of the INDOT website, <http://www.in.gov/indot/2436.htm>.

FTA's environmental impact regulation classifies categorical exclusion projects into two groups.

The first group, described in 23 CFR 771.117(c), contains activities and projects which have very limited or no environmental effects at all. Due to the minimal environmental impacts of these activities, no environmental documentation is required beyond the Documented Categorical Exclusion Worksheet. The following types of projects would fall into this exempted group:

- ◆ Engineering to define the elements of a proposed action or alternatives so that social, economic, and environmental effects can be assessed;
- ◆ Approval of utility installations along or across a transportation facility;
- ◆ Construction of bicycle and pedestrian lanes, paths, and facilities;
- ◆ Landscaping;
- ◆ Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur;
- ◆ Acquisition of scenic easements; and,
- ◆ Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.

There is also a second group of facility or facility-related projects that involve more construction and greater potential for off-site impacts. However, experience has indicated that many such facility projects can be constructed and operated without causing significant environmental impact. FTA may approve the designation of these construction projects as categorical exclusions if the applicant provides documentation which clearly demonstrates that the project is compatible with non-residential land use, the primary access roads are adequate to handle the additional vehicle traffic and that no significant adverse environmental effects will result.

Under Indiana environmental laws, local projects must undergo a review by various state agencies before INDOT can authorize/fund construction of a project. Under these procedures, the approved applicant of the project initiates the early coordination process with a letter to various state and Federal agencies and Section 106 consulting parties to provide them with project information and to receive specific

information regarding the probable impacts of the various alternatives.

Included in the early coordination letter (ECL) should be the following information:

- ◆ Description of the existing conditions of the project area, deficiencies, alignment, right-of-way, and current land use.
- ◆ A description of the purpose and need of the project.
- ◆ Maps of the project location.
- ◆ Aerial and site location photographs with views from all compass directions of the site.
- ◆ Facility concept schematics, if available.
- ◆ Project schedule.

INDOT can provide letter templates and contact information and additional technical assistance in preparing and transmitting ECLs.

Part of the early coordination process is conducted with the Indiana Department of Environmental Management, State Historic Preservation Officer (SHPO). Under Section 106 of the National Historic Preservation Act, the project must assess its potential impact on historic properties. The essential steps to Section 106 include the following:

1. Establish an Area of Potential Effect (APE).
2. Identify historic properties and archaeological sites within the APE.
3. Make preliminary determinations of APE, Eligibility Determination, and Effect Finding.
4. Identify Consulting Parties/invite Consulting Parties and the Indiana SHPO to participate in consultation.
5. Review responses from Consulting Parties, hold Section 106 Consultation Meetings, if necessary.
6. Prepare APE, Eligibility Determination, and Effect Finding; these will then be

forwarded to INDOT for review, and if appropriate, approved.

7. Distribute the approved APE, Eligibility Determination, Effect Finding, and documentation to consulting parties and present to the general public through public notices.
8. Revise the APE, Eligibility Determination, Effect Finding, and supporting documentation based on Consulting Party and public comments.
9. Resolve any adverse effects on historic properties.

Grantees should note that consistent with INDOT practices, only pre-qualified consultants are permitted to prepare environmental/Section 106 documents.

If the applicant does not possess the requisite expertise to prepare such ECLs or DCE Worksheet, INDOT will provide a pre-qualified third party contractor support to prepare these documents on behalf of the applicant.

There is no formal public review for these types of environmental studies (the public participation requirements will have been met through the project application process). Once completed, the documents are sent to INDOT.

INDOT (utilizing in-house resources (INDOT/Office of Environmental Services or those provided by third party services) will review the documents and determine if the project meets the requirements for a CE determination. INDOT will then forward DCE Checklist with recommendations to FTA.

FTA reviews this information and determines if a Categorical Exclusion is appropriate. Such facility projects include:

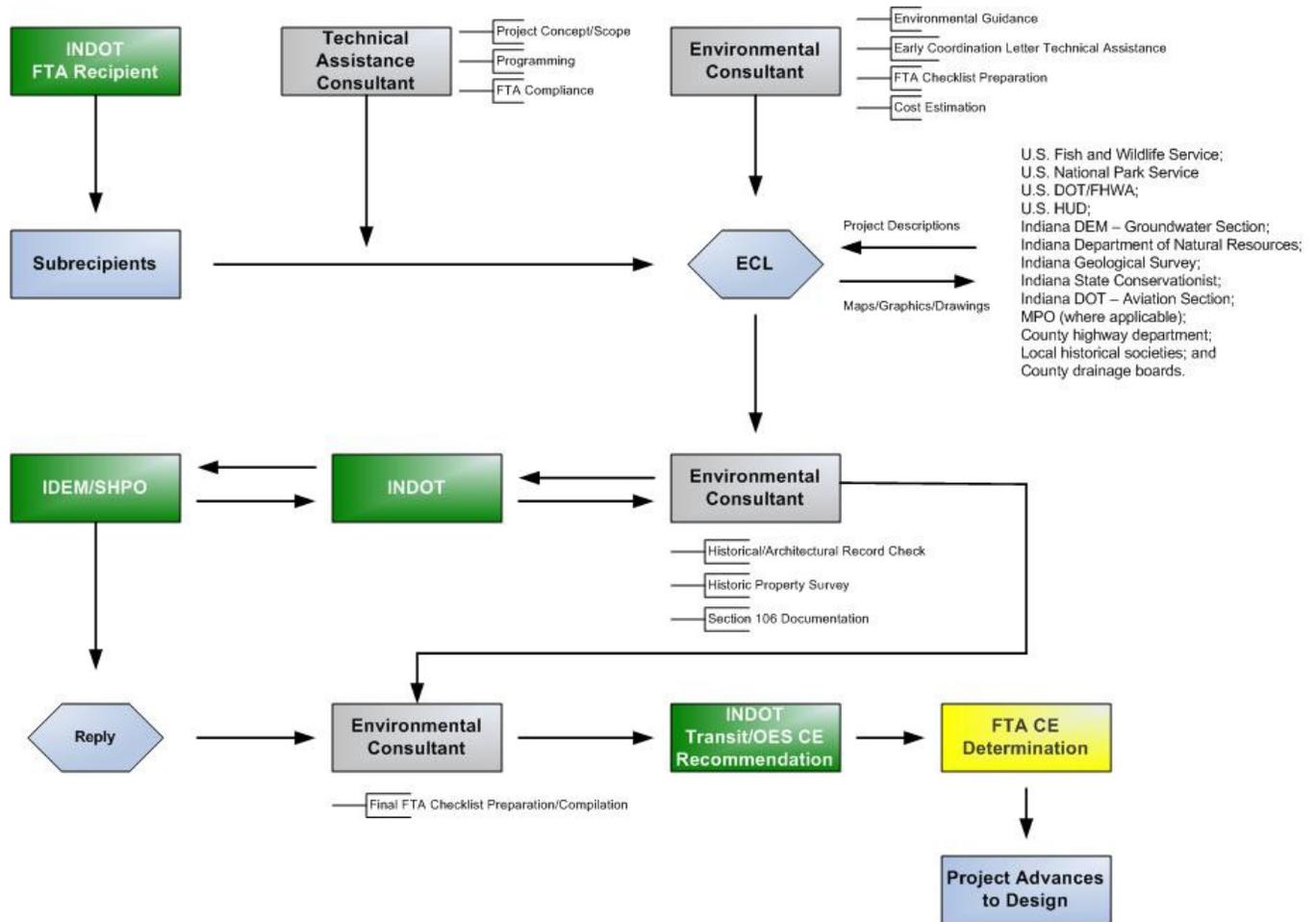
For any project not meeting the conditions for a categorical exclusion, the applicant may

have to prepare an Environmental Assessment (EA) which documents the impacts of the proposed project and considers alternatives to the proposed site or design. An EA is subject to public comment. In the unlikely event that significant environmental impacts are identified for a Section 5311 project, an Environmental Impact Statement (EIS) will be required. While experience has indicated that it will be very unusual for any INDOT Section 5311 supported facility projects to

not receive a categorical exclusion classification, it should not be assumed that the CE will be granted.

The environmental/Section 106 process is graphically depicted in Exhibit VII-1. This process depicts a scenario where INDOT, through its technical assistance contractor, provides pre-qualified consultants to work on the project.

Exhibit VIII-1. DCE Worksheet Preparation Process



Expanded information about the environmental protection requirements can be found in FTA Circular 9300.1B, Chapter VI, http://www.fta.dot.gov/legislation_law/13718.html.

AIR QUALITY

The Clean Air Act Amendments of 1990 established stringent air quality conformity standards in areas currently in violation of national air quality standards ("nonattainment" areas) and maintenance areas. Maintenance areas are those geographic areas that had a history of

nonattainment, but are now consistently meeting the National Ambient Air Quality Standard (NAAQS) and have been re-designated by the U.S. Environmental Protection Agency (EPA) from "nonattainment" to "attainment with a maintenance plan." The 1990 Amendments also ensure that federally- assisted transportation projects support State (air quality) Implementation Plans (SIPs). The SIPs include the strategies developed by state air quality agencies for attaining the air quality standards. FTA must find that capital projects needing FTA assistance conform to the applicable SIP before the projects may be advanced to construction. If applicable, the projects must also be included in

metropolitan transportation plans and programs (TIPs) that have also been found to conform to the SIP.

The procedures and criteria governing the conformity review process are specified in EPA conformity regulations at 40 C.F.R. Part 93. While these regulatory requirements can be complex, the EPA regulation also establishes a list of transit capital projects that are exempt from the process outlined above. These are projects presumed to have insignificant emissions effects and normally they can proceed without regard to the conformity requirements.

A number of smaller transit projects are covered under the list of exemptions at 40 C.F.R. § 93.126. Regardless of the type of project being considered, early consultation with FTA is essential to lay out the applicable Clean Air Act requirements in nonattainment and maintenance areas. The FTA regional office can also provide information on selected provisions of other laws that support clean air objectives. Below are some facility or facility-related projects that are exempt from conformity review:

- ◆ Purchase of office, shop, and operating equipment for existing facilities;
- ◆ Construction or renovation of power, signal, and communications systems;
- ◆ Construction of small passenger shelters and information kiosks;
- ◆ Reconstruction or renovation of transit buildings and structures (*e.g.*, rail or bus buildings, storage and maintenance facilities, stations, terminals, and ancillary structures); and,
- ◆ Construction of new bus or rail storage/maintenance facilities categorically excluded in 23 CFR part 771.

INDOT Oversight Action: A project cannot commence until INDOT formally notifies a

project that FTA has rendered a Categorical Exclusion determination. Only after such action will INDOT release funds to commence design of the facility project.

Step 8: Design

At this stage of the project, the grantee may now procure Architectural/ Engineering (A/E) services to design the facility.

For projects related to or leading to construction, a grantee must use the qualifications-based procurement procedures of 40 U.S.C. Chapter 11 (Brooks Act procedures) when contracting for A&E services and other services described in 49 U.S.C. Section 5325(b), which include program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, or related services.

INDOT prefers that grantees use a “design-bid-build” process under the Section 5311 program. Other options may be presented to INDOT for consideration, consistent with FTA Circular 4220.1F.

INDOT also requires that grantees use a “design within limitations” clause in the design contract to ensure design services result in a building that will be built within programmed budgetary limitations.

INDOT Oversight Action: To ensure compliance with this requirement, INDOT must approve the draft Request of Qualifications statement prior public advertising and/or release of the RFQ to prospective offerors.

Additionally, INDOT must concur with the final award decision and must approve the

third party contract between the grantee and the design firm.

Step 9: Construction Bidding

The architectural/engineering firm selected for the design is responsible for preparing construction bid documents.

INDOT Oversight Action: INDOT must approve the construction bid documents prior to public advertising and/or release of the Invitation to Bid (IFB) to prospective offerors.

Step 10: Construction and Close-Out

During this phase of the project, the grantee's project manager will have primary responsibility for oversight of the contractor(s), ensuring the materials and products used in construction meet specification, ensuring the work is performed on schedule, and the quality of workmanship meets industry standards.

INDOT also requires that the grantee's designated project manager be responsible for ensuring compliance with all associated labor requirements, including Davis-Bacon and all Fair Labor Standards Act requirements.

As the final element of facility construction projects, all grantees should ensure that their selected contractors have provided all necessary final documents and that grantees have secured all necessary certificates and have in their possession all required construction documents. INDOT has developed a Facility Close-Out Checklist to assist grantees in the completion and commissioning processes. This checklist is available in the Forms Section on the INDOT website, <http://www.in.gov/indot/2436.htm>.

Grantees are responsible for the conduct of these steps and collection of the specified documents listed below. All documents should be retained by the grantee.

INDOT requests that grantees submit a completed and signed form to INDOT for its records which will be verified as part of INDOT Oversight Action for this step (see below).

INDOT Oversight Action: To ensure compliance, INDOT may conduct periodic inspections of on-going construction projects to examine records, documents, etc. with respect to wage and hour requirements. Where this is not possible, the grantee's agent responsible for design and/or construction management oversight may be designated to perform these reviews.

REQUIREMENTS ASSOCIATED WITH ALL FACILITY PROJECTS

All facility projects that are financially supported with Federal funds must follow all applicable Federal guidelines and regulations. All applicable State guidelines and laws must be followed if State funds are utilized as match for the facility.

Income From Property

Transit facilities that are constructed, purchased, improved or renovated utilizing Federal and/or State funds shall be the property of the applicant for the expected life of the facility or for as long as the facility is used for public transportation purposes. Any income received from the authorized incidental use of any portion of the facility, such as leasing an unused portion to another organization, may be retained by the grantee (without returning the Federal share) if the income is used for eligible transit capital and operating expenses. This income cannot be

used as part of the local share of the grant from which the facility was obtained. However, the income may be used as part of the local share for another FTA grant.

Property Disposition

If the grantee determines that the facility is no longer needed, FTA may approve use of the property for other purposes without the reimbursement of funds to FTA. This may include use in other Federal grant programs or in non-Federal programs that have consistent purposes with those authorized for support by FTA.

-OR-

If the grantee or subgrantee no longer needs the facility for any transit purpose and is disposing of the facility acquired with grant funds and acquiring/constructing a replacement transit property, FTA may permit the net proceeds from the disposition of the original property to be used as an offset to the cost of the replacement property. If there are any excess proceeds from the disposition of the original property, these funds must be returned to FTA in accordance with 49 CFR 18.31.

-OR-

If the property is no longer needed for transit purposes and the grantee or subgrantee has determined to not acquire or construct a replacement property, the grantee must request disposition instructions from FTA. The property would be competitively marketed and sold, with FTA obtaining the greater of its share of the fair market value of the property or the straight line depreciated value of the improvements plus land value. FTA's share of the fair market value is the percentage of FTA participation in the original grant

multiplied by the best obtainable price, net of reasonable sales costs.

It should be noted that grantees or subgrantees are strongly encouraged to consult with INDOT staff and/or FTA regarding the disposition of transit property acquired with Federal funds.

Project Inclusion in Metropolitan TIP and/or STIP

Consistent with other transit projects supported with FTA funds, proposed facility projects that are within metropolitan planning boundaries must be included in the Metropolitan Transportation Improvement Program (TIP) approved by the metropolitan planning organization (MPO) and the Governor and in a Statewide Transportation Improvement Program (STIP) that has been approved by FTA and the Federal Highway Administration. Applications should identify the latest approved STIP (or amendments) containing the project(s), the appropriate page numbers, and a statement identifying the date that FTA and FHWA approved the STIP (or STIP amendment) that contains the proposed project(s). Projects listed in the TIP and STIP must be derived from and consistent with the State's long range transportation plan.

Land Appraisal

For land to be purchased pursuant to a transit facility project or used as local "in-kind" match toward the cost of the facility, a professional appraisal must be acquired. The appraisal should be provided in the form of an Appraisal Report which would be submitted to INDOT. Requirements for the scope of work for an appraisal as well as for the preparation of the required Appraisal Report are contained in the Appraisal

Manual prepared by the INDOT Office of Real Estate and is available at the <http://www.in.gov/indot/files/RealEstateAppraisalManual.pdf>.

Davis-Bacon Wage Requirements

The Davis-Bacon Act provides that all construction contracts exceeding \$2,000 in which Federal funds are involved must contain a clause that no laborer or mechanic employed directly upon the site of the work shall receive less than the prevailing rates in the project's geographical area as determined by the Secretary of Labor. A copy of this determination is to be included in each solicitation and ensuing contract. The Wage and Hour Division of the U.S. Department of Labor is responsible for publication of the wage determinations. Further information regarding this requirement can be found in the Procurement Section of the Manual.

Independent Cost Estimate

In the current version of FTA Circular 4220.1, Chapter VI-page 19, http://www.fta.dot.gov/legislation_law/13718.html stipulates that grantees must perform a cost or price analysis in connection with every procurement action, including contract modifications. The objective is to ultimately pay a reasonable price for the contracted work. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. For facility projects, local construction costs

must be reviewed to complete the Independent Cost Estimate. FTA's Best Practices Procurement Manual http://www.fta.dot.gov/grants/13054_6037.html, Appendix B.20, provides a format and guidance for in-house estimators that should be helpful in developing the cost estimate. The form is more complex than what may be needed for rural and small urban projects, but it provides a good overview of the process.

Facility Maintenance Plans

Written Facility (and Equipment) Maintenance Plans are required for all FTA-funded facilities. FTA requires grantees to have a written facility/equipment maintenance plan. These plans should describe a system of periodic inspections and preventive maintenance to be performed at certain defined intervals.

A facility maintenance plan template is available in the Forms Section on the INDOT website, <http://www.in.gov/indot/2436.htm>. However, INDOT encourages all subrecipients to review the template carefully and customize it to meet each subrecipient's individual needs. Refer also to the most recent version of FTA Circular 5010 at http://www.fta.dot.gov/legislation_law/13718.html.

(See also **Chapter VI**.)