



**American  
Public Transportation  
Association**

March 13, 2023

Docket Operations  
Office of Management and Budget  
Via Regulations.Gov

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Re: OMB-2023-0004-0001

Dear Docket Clerk:

The American Public Transportation Association (APTA) represents the \$80 billion public transportation industry that provides mobility for billions of Americans each year, directly employs 450,000 people, and supports millions of private-sector jobs. We are pleased to offer comments regarding the Office of Management and Budget's (OMB) request for information published in the *Federal Register* at 88 FR 8480 on February 9, 2023.

APTA is pleased to submit comments regarding OMB's proposed revisions to title 2 of the Code of Federal Regulation (CFR), subtitle A, chapters I and II, in 2023. Specifically, OMB asks: "What specific section(s) of 2 CFR have been interpreted differently by Federal agencies and recipients leading to inconsistent implementation of Federal financial assistance?"

The Common Grant Rule at 2 CFR 200.458 gives federal agencies broad discretion on when to apply pre-award authority. As a result, the timing for eligibility for pre-award authority within the Department of Transportation (DOT) is utilized differently depending on the modal administration and/or grant program. APTA recommends OMB clarify its regulation to ensure that pre-award authority starts at the beginning of the Federal fiscal year in which the relevant authorization was enacted, when such costs are necessary and timely to the performance of the scope of work of the grant.

Federal Railroad Administration (FRA) recently published guidance saying their pre-award eligibility started with the issuance of the Northeast Corridor Inventory.

This is in contrast to the Federal Transit Administration (FTA) who determined that pre-award authority for its Capital Investment Grant program includes specific allowances for pre-award authority at different stages of project development, in recognition of the long lead time needed for certain activities, particularly for large complex projects.

**PRESIDENT AND CEO**

Paul P. Skoutelas

1300 I Street NW  
Suite 1200 East  
Washington, DC 20005  
p: (202) 496-4800  
f: (202) 496-4324

**APTA.COM**

Without the ability to recover eligible costs, project sponsors are reluctant to begin early work, creating a catch-22, in which they are unable to demonstrate readiness. Allowing reimbursement for costs incurred prior to grant award will speed up the disbursement of funds to the economy and more quickly generate environmental benefits, good paying jobs, and investment in historically disadvantaged communities and areas of persistent poverty.

By modifying the common grant rule with clear language that pre-award authority begins at the date of enactment or fiscal year would allow project sponsors to move forward at their own risk and would help projects to be competitive and demonstrate project readiness.

Further, in light of the focus in the Infrastructure Investment and Jobs Act's emphasis on transformational projects, which often utilize funds from multiple discretionary grant programs, grantees may have to analyze its costs by grant program depending on the pre-award authority timing and this would create an administrative burden and potentially compliance risk.

If there are any questions regarding these comments, please contact APTA's General Counsel, Linda Ford at [lford@apta.com](mailto:lford@apta.com).

Sincerely,



Paul P. Skoutelas  
President and CEO