
From: Day, Elizabeth (FTA)
To: Graves, Bonnie (FTA)
CC: Ryan, James (FTA); Borinsky, Susan (FTA); Zelasko, Elizabeth (FTA); Sinuefield, Robyn (FTA); Steinmann, Richard (FTA)
Sent: 7/20/2010 10:04:00 AM
Subject: RE: Hawaii question

Hi Bonnie

I was out of the office this morning and only just now got through my emails. Below are my thoughts:

The appropriations language being contemplated for the Honolulu project in your email below doesn't give the project sponsor any benefit as we discussed over the phone yesterday. The "Farrington Highway Guideway, Stations, Maintenance Storage Facility" is the western segment of the federal project alignment that we know the City wants to begin construction on as soon as NEPA is complete. In order to begin construction on a portion of the Federal project prior to an FFGA, the City would have to obtain a Letter of No Prejudice from us that would allow them to do the construction work with local funds while retaining eligibility for future federal reimbursement if an FFGA is awarded. Work performed under an LONP is counted as part of the local match of the federal project, so this approps language is not necessary. While in the past we did not usually grant LONPs prior to Final Design approval particularly for construction work, we changed our policy on LONPs in Sept 2009 stating we would be willing to consider them earlier. However, LONP decisions are made on a case by case basis by the Administrator.

Any local funds spent on a project in advance of the FFGA, as long as they are spent in accordance with federal requirements and under an LONP or automatic pre-award authority, are counted in the evaluation of local share of the project. The current New Starts share of the Honolulu project is only 29%, so they already are getting a "High" rating in the evaluation of local share. Typically this type of language is only requested in when work on a separate of different project is desired to count as match to the New Starts project.

So, in summary, this language does not give the project sponsor any benefit.

From: Graves, Bonnie (FTA)
Sent: Monday, July 19, 2010 5:19 PM
To: Day, Elizabeth (FTA)
Subject: Hawaii question

Hi Beth

We had our conference call with Hawaii. Basically, they are trying to ensure that as soon as there is a ROD, they can start construction on the first segment of the project. One of our remaining questions is, if they are in final design, doesn't what they spend qualify for a letter of no prejudice? Do they really need the appropriations language? They are characterizing it as something they may or may not need, but they want to have it in their pocket just in case. They also say the whole project – including the local part – works out to a 70/30 local/federal split. I think this begs the question as to why they need the language. Can you help clarify why this language is helpful to them?

Here is the proposed language:

Sec. 169. Notwithstanding any other provision of law, when evaluating the local share of the project authorized to be carried out under section 3043 (c) (86) of Public Law 109-59 (119 Stat.1644) the Secretary shall give consideration to all non-New Starts funds expended for engineering, final design and construction of the Farrington Highway Guideway, Stations, Maintenance Storage Facility and related elements advanced with 100 percent non-New Starts funds.

Thanks!
Bonnie

AR00100611