



METROPOLITAN
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COMMISSION

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Memorandum

TO: Programming and Allocations Committee
Legislation Committee

DATE: October 9, 2013

FR: Deputy Executive Director, Policy

RE: Update on Status of Federal Transit Administration Grants

Overview

At the Programming and Allocations Committee's September 11, 2013 meeting, staff reported on a plan to resolve the stalemate over potential conflicts between the California Public Employees' Pension Reform Act of 2013 (PEPRA) and federal transit labor protections (commonly referred to as "Section 13c"). Since that meeting, FTA awarded only one Bay Area grant (for SFMTA, which is not affected by the PEPRA issue). All of the remaining grants listed in Attachment A are still awaiting Department of Labor (DOL) certification of their protective arrangements. Unfortunately, while the plan to resolve this stalemate remains on track, it did not take effect soon enough to avoid a lapse of \$10.2 million in FTA funds for the region. Grants with lapsing funds are listed at the top of Attachment A.

The lapsed funds include about \$1.9 million for MTC's Lifeline Transportation Program, which supports projects that address mobility needs in low-income communities throughout the region. This includes \$70,000 for MTC administration and technical assistance that is included in MTC's FY2013-14 budget. Another \$170,000 for Lifeline projects submitted by Santa Rosa and AC Transit also lapsed. Lifeline projects affected by the loss of FTA funds are detailed in Attachment B.

Next Steps

Staff intends to pursue two courses of action related to the lapsed funds:

- Protest DOL's failure to certify the protective arrangements related to MTC's Lifeline grant on the grounds that the grant did not receive any objections from transit unions, and neither MTC nor any of the subrecipients has employees that are covered by Section 13c.

- Work with FTA to request that all of the lapsed funds be returned to the region for their original purposes. Otherwise, lapsed funds are lost to the region and redistributed nationally.

Background

As part of the FTA grant approval process, Section 13c of the Federal Transit Act (49 U.S.C. § 5333(b)) requires that certain employee protective arrangements must be certified by DOL before federal transit funds can be released. For covered employees, these arrangements include preserving their rights and benefits, and continuing their collective bargaining rights. Since PEPRAs were enacted, transit unions have objected to numerous grants submitted by California operators on the grounds that PEPRAs' restrictions on pension benefits reduces their collective bargaining rights in violation of Section 13c. As a result, DOL has not certified the protective arrangements pertaining to most of the grants submitted by California transit operators, resulting in the current funding log jam.

A plan to resolve the PEPRAs dispute was announced by Governor Brown in September. Sacramento Regional Transit District (SacRT), joined by the Brown administration, is expected to file suit in federal court challenging DOL's decertification of its protective arrangements on the grounds that PEPRAs does not conflict with Section 13c requirements. After the suit is filed, the Governor will sign AB 1222, which temporarily exempts transit workers from PEPRAs while the SacRT suit is adjudicated, allowing DOL to certify the remaining protective arrangements and FTA to award the grants. If the court rules that PEPRAs does not conflict with federal labor laws, the exemption would sunset on January 1, 2015. If the court rules that PEPRAs does conflict with Section 13c, the exemption would be made permanent. The deadline for the Governor to sign AB 1222 is October 13.

Recommendation

This is an informational item.



Ann Flemer

Attachments: A. FTA Grants Status as of September 30, 2013
B. Lifeline project descriptions