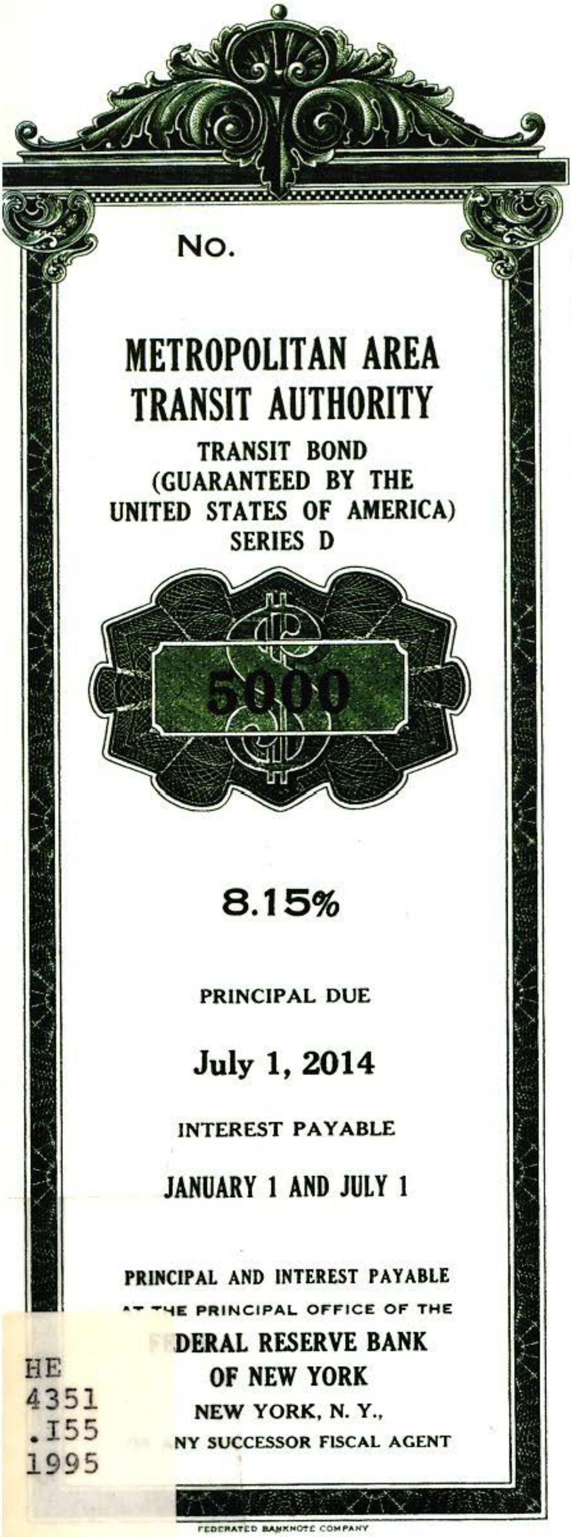
No.

METROPOLITAN AREA
TRANSIT AUTHORITY

TRANSIT BOND
(GUARANTEED BY THE
UNITED STATES OF AMERICA)
SERIES D

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PRINCIPAL DUE

July 1, 2014

INTEREST PAYABLE

JANUARY 1 AND JULY 1

PRINCIPAL AND INTEREST PAYABLE
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DERAL RESERVE BANK
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NY SUCCESSOR FISCAL AGENT

FEDERATED BANKNOTE COMPANY

INNOVATIVE FINANCING HANDBOOK

U.S. DEPARTMENT OF TRANSPORTATION

FEDERAL TRANSIT ADMINISTRATION

Dear Transit Colleague:

I am pleased to provide you with a copy of the enclosed publication, "Innovative Financing Handbook." It contains guidance on and examples of many of the innovative financing techniques that may be used by transit authorities to enhance the effectiveness of their infrastructure investment programs, and includes the FTA Innovative Financing Federal Register Notice (FRN) which was published on May 9, 1995. The publication is intended as a reference document that facilitates development of additional ideas and financial innovations. It is envisioned that transit operators who develop variations on these techniques, or additional innovations, would propose these to FTA for review and approval.

The publication begins with specific financing techniques which are described in greater detail than was included in the FRN. The last section of the report contains the text of the FRN as published, and a matrix of the sample techniques, compared with the various FTA funding sources that may be available for use in innovative financing. If you need additional copies of this publication, please contact your Regional Office.

Sincerely,

Gordon J. Linton
Administrator

TAI ONTENTS

INTRODUCTION

On May 9, 1995 FTA published in the Federal Register a notice on Innovative Financing. The notice describes a variety of innovative financing techniques that may be used by transit operators receiving Federal financial assistance. Transit agencies may use FTA grant funds, or assets acquired with Federal assistance, to enhance the effectiveness of their capital investment programs with these techniques. This publication is intended to provide FTA grantees with general guidelines on selected types of financial structures that they may propose in support of a wide variety of capital projects. The transaction types described have either already been used, with FTA's concurrence, or they have been proposed and are being recommended for use in the context of FTA grant programs. An example of a "tested" transaction is the use of Certificates of Participation (COP's) to facilitate a sale-leaseback of buses.

If, after discussions with Regional personnel, there are any questions remaining, please contact either Janette Sadik-Khan, Associate Administrator for Budget and Policy, on 202-366-4050, or Paul Marx, Economist, on 202-366-1675.

Repaying Bonds and Certificates of Participation

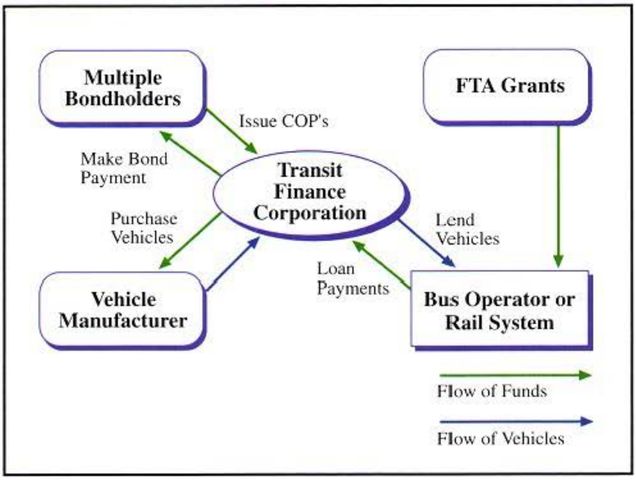
COP's are tax-exempt bonds, issued by State entities, that are usually secured with a specified revenue source such as an equipment or facilities lease. A purpose-formed State entity issues tax exempt bonds with maturities that match the lease term of assets that are purchased by the State entity with the proceeds from the bond issue. The State entity then leases the equipment to one or more transit systems. The resulting lease payments, most often made with a combination of formula grant funds and local matching share, are then "passed through" to the bondholders by the State entity. The combination of larger vehicle order size, COP's with varying maturities, and lease arrangements, reduce and stabilize current capital costs significantly.

Several examples are provided by the California Transit Finance Corporation (CTFC), which provided funding for the bus purchases of several California grantees, including the Los Angeles County Metropolitan Transportation Authority which replaced 333 diesel fuel buses with buses that operate on methanol. The CFTC issued COP's, secured by a lease on the buses that were purchased. Because the transaction involved 40 buses, the local gas utility provided a high-speed fueling facility with a favorable capital lease arrangement. The following diagram illustrates the transaction.

NOTE: FTA funds may not be used directly to generate interest income from arbitrage (i.e. making money from the difference between the Federal and local costs of borrowing). In the following structure, Federal funds are being used to make lease payments. The COP's are secured by the leases, not by the pledge or encumbrance of Federal funds.

"Certificates of Participation (COP's) are a type of leasing arrangement in which bonds are issued to finance the purchase of transit assets." (Federal Register, Vol. 60 No. 89, May 9, 1995)

Example Structure



This methanol powered bus was financed through COP's.

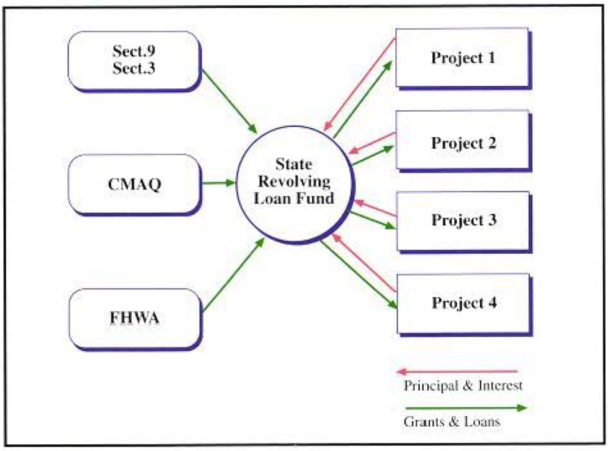
State Revolving Loan Fund

States have the ability to use FTA grant funds to establish and operate Revolving Loan Funds in support of public and private non-profit transit operators. This mechanism allows the State, as recipient or by agreement with its sub-recipients, to aggregate Section 16, 18, or 9 funds, pool purchases of vehicles, and either lease or sell these to the transit operators, or make loans to transit operators for vehicle and facilities acquisitions. The revolving loan fund allows pooled vehicle purchases that may help reduce acquisition costs. It provides a mechanism for the State to make loans (with interest) or leases to transit operators who might not be able to arrange such transactions on their own. It also provides an ongoing source of local capital in support of the State's transit operators. The interest payments and lease payments returned to the State's revolving loan fund are considered to be "program income" in the context of the FTA grant program. These income streams are therefore not required to be returned to the U.S. Treasury, and may be used to make additional loans, leases, and grants to eligible transit grantees. The local grantees are able to use subsequent years' rural or urban grant funds to make loan or lease payments, including reasonable interest.

The Arkansas State DOT has requested authority and FTA funding to establish a State revolving loan fund, including Federal Highway Vanpool funds and local matching funds, to facilitate a State vehicle purchase and leasing program. Over $2.4 million in vehicle purchase activity may be supported with this fund over a 10-year period. This represents at least 125 vans for rural health and human services transportation service. The fund will reduce vehicle purchase costs by allowing more vehicles to be purchased at one time, and it will reduce transportation providers' capital costs by allowing them to lease these vehicles rather than purchasing them.

"Federal grant funds may be used to support State or local revolving loan funds established in accordance with appropriate State laws."

Example Revolving Loan Fund



The Arkansas Department of Transportation is initiating a revolving loan fund for transit.

LEASE PAYMENT

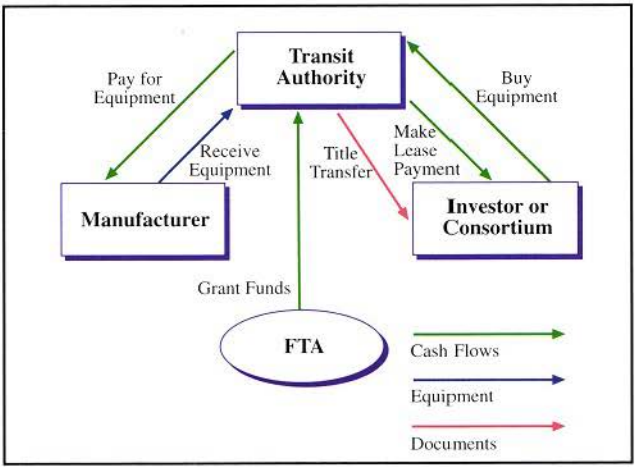
Most FTA capital funding can be used to repay the principal and imputed interest costs of a facilities or rolling stock lease. This capability also applies to the capital and interest costs of contracting for service, referred to as "Capital Cost of Contracting. [See FTA's circular C.7010.1 of December 5, 1986] While FTA currently must pre-approve the use of discretionary funds for lease payments, no such pre-approval is required for the use of formula funds. A modification is being considered to allow the use of discretionary funds on the same basis as formula funds.

Under a lease structure (provided the grantee demonstrated that a lease was more cost-effective than direct purchase) the equipment or facility could be purchased by a leasing company, and leased to the grantee. The grantee would make lease payments from a combination of Federal funds and local matching funds. The primary benefit of such a structure is that it allows the grantee to arrange its cash flow needs on a more level basis, even when an unusually large acquisition must be made. Secondary benefits include the ability to bank the local share, allowing it to earn interest pending its use for making lease payments, as well as the ability to reprogram some of the current formula grant funds to other projects.

The only restriction on the use of formula funds for lease payments is that imposed by the operating assistance cap, which applies to operating leases as much as to direct operating costs. This limitation would arise if the grantee acquired the use of vehicles through a lease that included the provision of maintenance and fuel. Such a lease would be defined as an operating lease, so at least part of the lease payments would be regarded as operating expense.

"FTA funds may be used to lease, rather than purchase, transit equipment and facilities . . . so long as leasing is more cost-effective than direct purchase."

Example Lease Structure



In transit, vehicles have often been acquired through a lease.

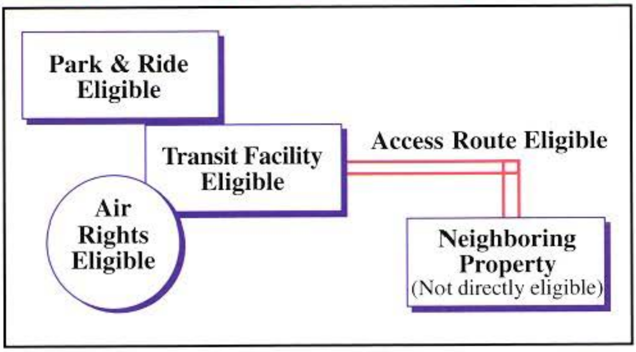
JOINT DEVELOPMENT OF TRANSIT ASSETS

There is a great deal of flexibility in FTA's treatment of Joint Development, particularly as this relates to transit supportive development in FTA's "Livable Communities Initiative." Grantees can lease air rights above a transit station, or transfer the FTA interest in one property to another, to allow the private development or other use of the property. FTA funds cannot generally be used to support development of property that is not directly adjacent to the transit facility. However, if property can be subdivided, the FTA interest can be vested wholly in one part while the other would be considered 100 percent local share, for purposes such as leasing or mortgaging, which allows the transit system to actively support land use changes that increase transit use and program income. Joint development proposals will be reviewed and approved by FTA on a case-by-case basis.

Santa Clara County Transit Authority requested regulatory flexibility to use excess land (a 17-acre park-and-ride lot) adjacent to a light rail station for a transit/housing joint development project. FTA capital funds would be used to make improvements to the part-and-ride lot and provide a bus transfer facility. This investment would attract a private developer to build the housing development, and would generate between \$200,000 and \$300,000 annually in lease revenues for the transit district. At current interest rates (about 7%), such a revenue stream has a net present value of between \$2.2 and \$3.3 million in the first 25 years of the project's life. This does not include fare revenues from increased transit system use.

"Capital Program funds can be used for a variety of joint development activities, so long as they are physically or functionally related to a transit project and they enhance the effectiveness of the transit project."

Examples of Eligible Joint Development Property



Joint development often involves the location of an office building over a transit station.

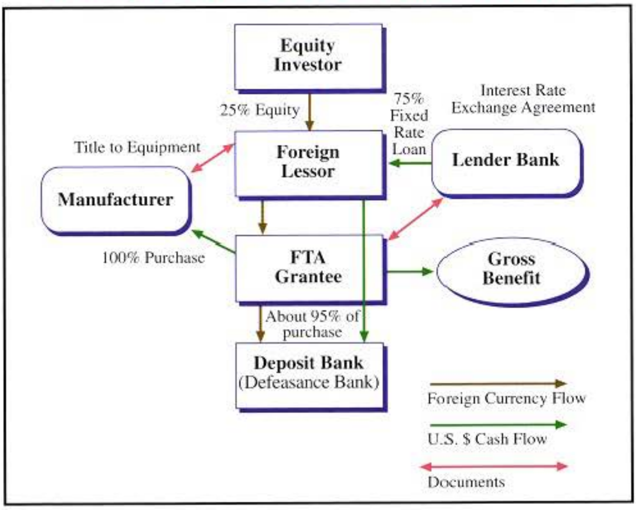
Cross Border Lease

On April 26, 1990, FTA issued Circular 7020.1 "Cross-Border Leasing Guidelines." This circular announced that U.S. transit operations would be able to participate in equipment leases by means of a sale-leaseback mechanism with a foreign lessee. This mechanism is similar to the Safe-Harbor Lease that was eliminated in the 1986 Tax Act. However, since the net benefit to the participants results from non-U.S. tax laws, it is allowable under U.S. laws. The basic form of this transaction is for the transit operator to purchase rollingstock, such as railcars, then simultaneously sell these to a non-U.S. investor who in turn leases them back to the transit system. The foreign lessee generates tax benefits in its country of origin through investment tax credits and depreciation. These benefits are shared with the U.S transit operator through reduced lease costs. Since 1990, cross-border lease transactions have generated net benefits for transit systems of between 1.5 percent and 4.5 percent of total transaction size. The most cost-effective cross-border leases have exceeded $50 million in transaction value, primarily because substantial transaction costs usually require a higher transaction value. However, a few transactions have been successfully concluded with equipment of somewhat lower value.

New Jersey Transit (NJT) reduced the cost of refurbishing its Arrow III commuter rail cars. In a cross-border transaction facilitated by Asea Brown Boveri (ABB) and its Netherlands banking subsidiary, NJT sold 233 refurbished Arrow III commuter cars to ABB, then leased them back for twelve years or more. A combination of debt provided by ABB and equity provided by NJT secured the transaction. NJT realized a net benefit from this transaction of $18.4 million.

"A cross border lease is a mechanism which permits investors in a foreign country to own assets in the United States, lease them to an American entity, and receive tax benefits under the laws of their own country

Example Cross-Border Lease Structure



Cross border leases often involve acquisition of rail rolling stock.

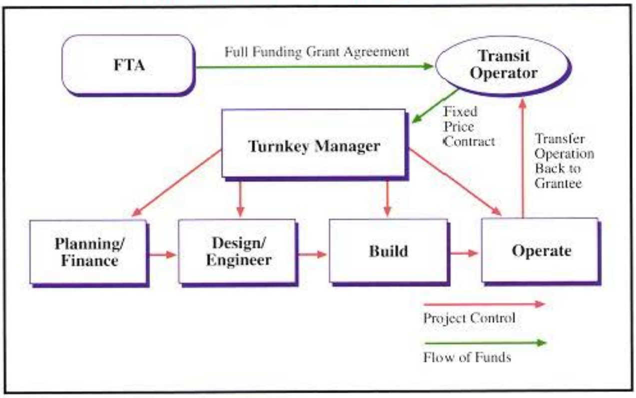
SUPER TURNKEY & PRIVATE FINANCING

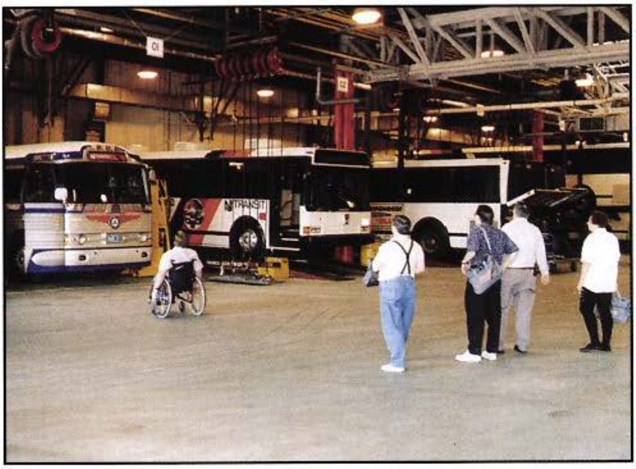
The "Super Turnkey" process (authorized in Section 3019 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) is one where the project engineers or project management consortium undertake to build, operate for a time, and transfer a facility to the purchasor. In such a situation, purchasing, deliveries, scheduling, and other critical aspects of the project are directed by the same entity – a Turnkey Manager. As a result, construction delays, start-up difficulties, disagreements about change orders and project timing are minimized, resulting in lower project costs and reduced litigation.

One modification to this "Build/Operate/Transfer" (BOT) process is where the consortium also arranges financing. This technique may be attractive for smaller grantees who may not have the credit history to minimize their borrowing costs. The Turnkey Manager may assist with project financing by accepting delayed compensation (e.g., postponement of progress payments), credit enhancements such as an insured line of credit, or even total project financing through the issuance of their (the consortium's) own bonds. While these financing methods have costs associated with them, they may allow a new transit project to proceed in a timely manner, thus generating time and project savings well in excess of the financing cost.

"Grantees can also consider use of vendor financing in procurements, such as super turnkey."

Example Super Turnkey Structure





A turnkey procurement may be used to acquire an entire system, or just a component such as this bus maintenance facility.

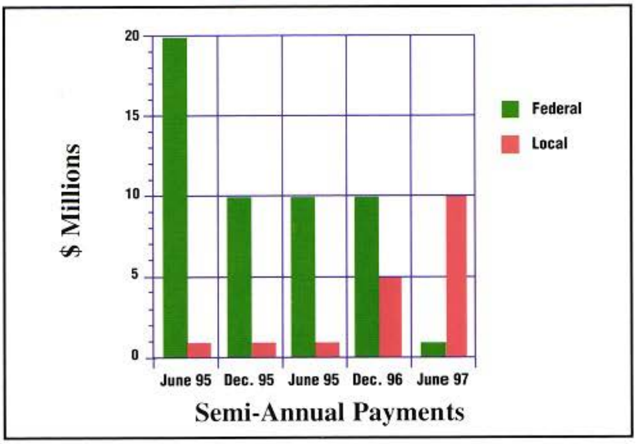
Delayed Local Match

Transit systems may wish to delay the application of their local match ing funding, particularly if they are trying to maximize the use of their locally available funds. This could occur because the funds are invested in a short-term security, for example, or otherwise encumbered. However, there may also be a situation where the grantee is seeking to arrange construction period financing or some other innovative financing mechanism which could be facilitated through an uneven expenditure of Federal and matching funds. In the example chart, the delayed local match would allow the grantee to earn $2.45 million on its local share, at current interest rates. Additional benefits could be generated through innovative project financing, or other means.

The FTA grants process generally is based on a level outflow for a specific project. For every 20 percent expended by the locality, 80 percent in Federal funds are expended. Little value can be added to such a cash stream through the assistance of private capital markets. However, if the Federal dollars are expended first, e.g., for 100 percent of the design, engineering, or environmental reviews, then the construction period can be financed with some private participation. In this instance local funds can be "banked", or pledged as additional security for construction period financing. This is all possible because there are no arbitrage concerns with the local funds as there might be with the Federal funds. The benefit of delayed local match is that it may help assure the smooth progress of a major transit infrastructure project without any increase in Federal outlays.

"FTA permits grantees to defer the payment of the local share of transit projects."

Delayed Local Match



Delayed local match may facilitate the financing of major capital projects, such as light rail.

Toll Revenue Credits

ISTEA provides that toll revenues on public roads and bridges expend ed for capital investment may count as local match (soft match) for Federal grant funds in a specific year. This capability allows the local matching share that would otherwise be required to match a transit grant, to be used for other projects.

This results from the recognition that different modes of transportation are interconnected. Capital expenditures to reduce congestion in a particular corridor benefit all modes in that corridor, be they automobiles, transit buses, or a rail system. Thus, if a community constructs a toll bridge, ISTEA allows the revenues from that toll bridge to be used as local match under the following specific circumstances:

- The toll revenues must be used for transportation capital investment, not operating expenses;
- The soft match in one year is counted as the amount of toll revenue used for transportation capital investment in that year. That is, there is no carryover.

Depending upon local conditions and requirements, a project's local (non-toll) match could be banked, or used as matching funds for a discretionary grant, or used to facilitate the early completion of other capital projects, etc.

While toll revenue credits are not directly facilitated in Federal Transit laws, the credits can readily be applied to transit capital investments.

The FTA Innovative Financing Initiative has shown two things. One, that the transit systems in our Nation have already made significant advances in financial innovation, and two, that the private sector — investors, developers, and the private capital markets — have an increasingly significant role to play in the continued and enhanced provision of public transportation. Only by providing an orderly and predictable transit program will we be able to keep the interest of private investors focused on public transit. This Federal Register Notice is intended to summarize and promote many of the innovations undertaken by transit systems nationwide, while providing a consistent framework for continued private investment in transit infrastructure.

Janette Sadik-Khan
Associate Administrator for
Budget and Policy

FEDERAL REGISTER NOTICE

DEPARTMENT OF TRANSPORTATION
Federal Transit Administration

Innovative Financing Initiative: Administrative Policies and Procedures Facilitating Use of Innovative Finance Techniques in Federally-Assisted Transit Projects

AGENCY: Federal Transit Administration, DOT
ACTION: Notice.
SUMMARY: This Notice describes innovative financing methods and asset management tools which may be used in connection with projects receiving assistance from the Federal Transit Administration (FTA) in order to facilitate financing, leverage Federal, State and local funds, and otherwise increase the effectiveness of transit capital projects.

FOR FURTHER INFORMATION CONTACT:
Janette Sadik-Khan, Associate Administrator for Budget and Policy, (202) 366-4050, or Paul Marx, (202) 366-1675, Room 9310, 400 7th Street, S.W., Washington, D.C. 20590.

SUPPLEMENTAL INFORMATION

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) encourages more efficient management and enhancement of our Nation's public transit infrastructure through the creation of public/private investment partnerships. In addition, Executive Order 12893, "Principles for Federal Infrastructure Investments," signed by the President on January 26, 1994, directs each executive department "to ensure efficient management of infrastructure . . ." and "to encourage private sector investment, which is a key objective of our efforts to promote innovative financing." Underlying this guidance is the notion that market-oriented financing and management techniques can be effective tools for meeting our Nation's needs for infrastructure investment. To further these directives, on September 12, 1994, FTA published a Notice regarding its Innovative Financing Initiative in the Federal Register (59 FR 46878) in which FTA requested information from its grantees about their use of innovative financing techniques in local transit projects.

This Notice combines in a single document current innovative financing methods and asset management tools and indicates, where appropriate, changes in administrative practice or policy guidance that may facilitate their use. Grantees and others in the transit community may find it useful to have in one publication a summary of the permissible financing and management techniques under FTA's grant programs. Grantees should, however, refer to the appropriate FTA regulations, circulars, reports, and publications that explain these techniques in greater detail, or contact their FTA Regional Office for further guidance and assistance.

The discussion below is divided into two broad categories, Innovative Finance Techniques and Asset Management Tools.

INNOVATIVE FINANCE TECHNIQUES

This section describes innovative financing techniques which may be used in connection with Federal transit assistance. In general, the techniques can be used with new projects financed with the FTA Urbanized Area Formula Program (49 U.S.C. 5307, formerly Section 9 of the Federal Transit Act, as amended) funds, as well as with Title 23, United States Code (e.g., Surface Transportation Program (STP) and Congestion Mitigation and Air Quality program (CMAQ)) funds transferred to be used for transit projects. In most cases, the techniques can also be used with funds from the Capital Program (49 U.S.C. 5309, formerly Section 3), as well as Nonurbanized Area Formula program (49 U.S.C. 5311, formerly Section 18), and Elderly and Persons with Disabilities Program (49 U.S.C. 5310, formerly Section 16) funds. Many of the procedures can also be used with respect to assets previously acquired with Federal transit assistance. For clarity, each technique is described separately. Grantees should take note that two or more techniques may be combined in the same project to generate additional savings or to further enhance private financing.

FTA generally supports use of innovative financing concepts that enhance the effectiveness of public transit investment by either generating increased investment or by reducing overall project costs. The following techniques and provisions of Federal transit laws are illustrative of the types of innovation that FTA will support. The list is not exclusive; grantees interested in pursuing techniques not listed here should contact their FTA Regional Office. FTA will evaluate proposals on a case-by-case basis, and where appropriate make further changes in administrative procedures, or if necessary, revise its rules and regulations to make such changes.

Leasing. FTA funds may be used to lease, rather than purchase, transit equipment and facilities. Urbanized Area Formula Program (49 U.S.C. 5307, formerly Section 9) funds may be used to cover the costs of new and pre-existing leases, so long as leasing is more cost effective than a direct purchase. FTA regulations at 49 C.F.R. Part 639 prescribe how leasing of transit equipment may be eligible. Moreover, FTA permits on a case-by-case basis, using slightly different criteria, such leasing under the Capital Program (49 U.S.C. 5309, formerly Section 3), Nonurbanized Area Formula Program (49 U.S.C. 5311, formerly Section 18), and Elderly and Persons with Disabilities Program (49 U.S.C. 5310, formerly Section 16).

Certificates of Participation (COPs). Certificates of Participation (COPs) are a type of leasing arrangement in which bonds are issued to finance the purchase of transit assets. Typically, the public transit agency (lessee) enters into a lease with a trustee or non-profit entity (lessor) for the assets it wishes to acquire. The lessor then transfers its rights to receive the lease payments made by the transit agency to the bond holders. The cash paid by the bond holders is used to purchase the assets that will be leased by the transit agency. The transit agency makes lease payments from local revenue sources and FTA grants. Title to the assets is held by the trustee for the security interest of the bond holders during the life of the transaction (usually 7 to 12 years). Use of this technique may allow transit agencies to use future reserves of local and federal revenues to accelerate equipment purchases. Although historically FTA recipients have engaged in COPs transactions solely for the purchase of vehicles, this technique may also be used to acquire facilities. Approximately six of these have taken place with federally funded equipment. Further guidance on the use of COPs can be found in FTA Report No. FTA-MA-90-7005-93-1 ("How to Evaluate Opportunities for Cross Border Leasing and COPs," November 1993).

Joint Development. Under 49 U.S.C. 5309(a)(5) and (f) and 49 U.S.C. 5309(a)(7) (formerly Sections 3(a)(1)(D) and 3(a)(1)(F)), Capital Program funds can be used for a variety of joint development activities, so long as they are physically or functionally related to a transit project and they enhance the effectiveness of the transit project. Further, consistent with the additional flexibility in funding and decisionmaking afforded by ISTEA, FTA has recently interpreted the Capital Program (49 U.S.C. 5309) and the Federal Transit laws (49 U.S.C. 5301 et seq.) to allow such joint development projects under the Urbanized Area Formula Program (49 U.S.C. 5307, formerly Section 9), as well as the STP (23 U.S.C. 133) and the CMAQ Program (23 U.S.C. 149) when these funds are transferred to FTA for a transit project. Similarly, by this Notice, FTA is also alerting its grantees to the fact that assets previously acquired with FTA funds may be used for such joint development purposes. For example, land now used for station parking and no longer needed for transit purposes may be converted to use in a transit-related development project.

Certain cross-cutting Federal requirements will apply to the activities supported by Federal transit funds; however, such requirements would not apply to the commercial project itself, since Federal funds cannot be used for the construction of commercial revenue-producing facilities. FTA program funds may be used for the overall planning of a transit project, including the commercial revenue-producing facilities, so long as such commercial facilities are part of an overall transit-related project.

Use of Proceeds from Sale of Assets in Joint Development Projects. To facilitate joint development activities, FTA permits the sale of real property and property rights acquired with FTA assistance, in the following instances.

i. **Real property** that is no longer needed for transit purposes may be sold and the proceeds may then be used to purchase other real property for a transit-supportive development. If the real property is leased, the proceeds are considered program income and may be used for any transit purpose.

ii. **Air rights** over transit facilities constructed with Federal funds may be sold or leased to developers and the proceeds retained as program income for future use in mass transit, rather than returned to the Treasury.

Cross Border Leases. A cross border lease is a mechanism which permits investors in a foreign country to own assets in the United States, lease them to an American entity, and receive tax benefits under the laws of their own country. FTA will permit the encumbrance of federally funded assets under a cross border lease so long as the grantee maintains continuing control and use of the asset in mass transit, and the benefits of the transaction outweigh the risks to the grantee. Grantees should provide FTA with the details of the transaction for review on a case-by-case basis. FTA's policy on Cross Border Leases is contained in FTA Circular 7020.1 ("Cross Border Leasing Guidelines"). Further guidance on cross border leases is available in FTA Report No. FTA-MA-90-7005-93-1, cited previously.

Capital Cost of Contracting. FTA permits grantees to count a portion of the costs of a contract with a private operator for transit service operations as a capital cost eligible for FTA capital program funding. This policy is described in more detail in FTA Circular 7010.1 ("Capital Cost of Contracting"). This policy generally applies to contracting for providing transit services where the use of facilities and equipment is provided as a part of a transit service contract.

Innovative Procurement Approaches. FTA encourages grantees to use a wide variety of innovative procurement techniques. These can include multi-year rolling stock procurements, forming consortia to facilitate efficiencies of scale in rolling stock procurements, or using design-build ("turnkey") as a method of infrastructure project delivery. Grantees can also consider use of vendor-financing in procurements, such as "super-turnkey," in which the contract calls for borrowing by the design-build contractor, with the costs, including interest, paid off over time using Federal grant funds. Further information on this form of procurement is available in FTA Report No. FTA-MA-08-7001-92-1, "Turnkey Procurement: Opportunities and Issues."

State Transit Finance Support. FTA encourages States and local governments to develop the capability to provide support for transit finance initiatives. Where State law permits, FTA capital funds can be used to support transit-related State finance entities, such as transportation banks. Such finance entities could provide a range of financing options, including cross border leases, certificates of participation, joint procurements, and the like, that may not otherwise be available to the smaller transit agencies. While FTA capital program funds can be used to cover the initial capitalization, they cannot be used to cover the ongoing operating costs of such a program.

Revolving Loan Funds. By this Notice, FTA announces that Federal grant funds may be used to support State or local revolving loan funds established in accordance with appropriate State laws. These funds would be available to provide direct loans for transit projects, or to acquire equipment and facilities and lease them to providers of public transportation in their States. Payments to retire the loans or service the leases, including accrued interest, would be used to fund other transit projects. Such a revolving loan fund could be used in combination with pooled procurements, State or locally issued bonds, joint development, and other techniques to generate income for transit investment or to reduce the overall cost of transit capital investment. As with the State Transit Finance entities, FTA funds can be used to cover the initial capitalization, but they cannot be used to cover the ongoing operating costs of such a program.

Deferred Local Match. FTA permits grantees to defer the payment of the local share of transit projects. Under this policy, grantees may, with prior approval from FTA, draw down 100 percent of the first 80 percent of project cost of former Section 3 (49 U.S.C. 5309), 8 (49 U.S.C. 5303), 9 (49 U.S.C. 5307), 16 (49 U.S.C. 5310), 18 (49 U.S.C. 5311) and 26 (49 U.S.C. 5320) projects, covering the local share of the costs at the end of the project. See, "Policy Statement on Local Share Issues," 57 FR 30880, July 10, 1992.

Asset Management Tools

Transfer of Federal Interest. In order to facilitate the implementation of certain innovative financing transactions involving the lease or encumbrance of an asset, FTA will permit the concentration of the Federal interest in a portion of assets acquired with Federal funds, leaving the remaining portion unencumbered by any Federal interest. For example, where a fleet of 100 vehicles is acquired with Federal funds with a local share of 20 percent, the Federal interest may be concentrated in 80 of those vehicles, leaving the remaining 20—the local share—of the vehicles without any Federal interest. Moreover, this separation of Federal and local interests allows the grantee to explore other financing techniques, such as using the local share for COPs or cross border leases to leverage additional funds, or using short-term lending, or debt subordination, where arbitrage issues could be involved. For example, the portion of a fleet or facility without Federal interest could be mortgaged, and the proceeds used to earn interest or act as credit enhancement on a bond issue supporting a major investment, thus generating savings for the transit authority.

Like Kind Exchange. FTA permits the transfer of the remaining Federal interest in an asset to be transferred to a new asset in order to facilitate the early replacement of such assets. For example, under the FTA Like Kind Exchange policy (described in more detail in 57 F.R. 39328, August 28, 1992), buses which have reached only one-half their expected useful life may be sold and the proceeds may be used to pay part of the cost of like-kind replacement vehicles, so long as the remaining Federal interest in the vehicles which are sold is applied to the new vehicles. In such cases, the proceeds of the sale of the vehicles does not have to be returned to the Federal government.

Incidental Non-Transit Use. FTA-funded facilities may also used for limited non-transit purposes. For example, FTA funds may be used for acquisition of a Compressed Natural Gas fueling facility which will be used both by the transit operator's vehicles as well as other public vehicles. In such a case, FTA will participate in the capital costs of the facility proportionate to the needs for transit operations, including any designed-in reserve capacity necessary to assure reliable transit service. However, non-transit use should be incidental, i.e., not detract from or interfere with the mass transit use of the facility. FTA will determine what use is incidental on a case-by-case basis. It should be noted that 49 CFR Parts 604 and 605 prohibit the use of FTA-funded facilities for charter and schoolbus purposes.

Transfer of Federally-Assisted Assets. 49 U.S.C. 5334(g) allows existing, federally supported assets to be transferred for another public use when they are no longer required for transit purposes. For example, if a bus garage is no longer needed for transit purposes, it may be transferred to local municipal ownership for use in support of general public services. This new provision may also have application in support of innovative financing techniques, for example, by permitting transfer of ownership of assets acquired with Federal funds to local public use in return for other local support for transit. These transfers are subject to very specific statutory conditions and must be approved in advance in writing by FTA.

Coordinated Urban and Rural Services. Assets acquired with FTA funds may be used for any purpose which is eligible for FTA funding. Thus, assets acquired with Urbanized Formula Program funds (49 U.S.C. 5307, formerly Section 9) or Capital Program (49 U.S.C. 5309, formerly Section 3) funds may be used in a rural setting together with assets acquired under the Nonurbanized Area Formula Program (49 U.S.C. 5311, formerly Section 18), as part of a coordinated rural/urban system. Likewise, assets acquired for service in nonurbanized areas can be used in urbanized areas as part of such a coordinated rural/urban system.

Corridor Preservation/Advance Right of Way Acquisition. In limited circumstances, FTA program funds can be used to acquire and preserve existing transportation corridors and rights of way for future use in transit fixed guideway projects, or existing corridors and rights of way acquired with local funds can be used as local match for FTA grants. Indeed, should there be an increase in the market value of an existing corridor or right of way acquired with local funds only before the use of that property for a transit project, the property would be accepted as local match for an FTA grant at its increased value. Acquisitions of existing corridors and rights of way with FTA funds are subject to two important constraints: (1) the FTA/Federal Highway Administration (FHWA) requirement for completion of a Major Investment Study before a major investment project can be programmed for construction funding; and (2) the prohibition on advance land acquisition that would prejudice the ultimate decisions on mode and alignment for any transportation project prior to completion of the National Environmental Policy Act (NEPA) studies for that project.

The preceding are examples only. FTA welcomes all ideas and projects that have the potential to leverage existing or planned infrastructure investment, or that will help to reduce public transportation costs over time. Grantees interested in pursuing these and other options should refer to the appropriate FTA regulations or publications referenced in this Notice or contact their FTA regional office to discuss their plans in more detail.

FTA will continue to make full use of its regulatory and statutory flexibility in fostering innovative financing proposals for transit. However, in all cases, projects must comply with all other statutory and regulatory requirements such as the NEPA, Civil Rights Acts, Americans with Disabilities Act, the Clean Air Act, and the Administrative Procedures Act.

ISSUED ON: MAY 9 1995

Gordon J. Linton
Administrator

Matrix of FTA Grant Programs and Innovative Financing Techniques[1]

This table assumes the technique applies to the eligible purpose of the project. i.e., bond repayment with Section 18 would mean repay bonds used to buy rural vans.

Financial Technique	Sect. 3[1]	Sect 9	Sect 16	Sect 18	Sect[2] 11(b) & 20	Sect 26[3]	CMAQ STP
Repay bonds & Certificates of Participation	YES	YES	YES	YES	NO	YES	YES
State Revolving Loan Fund	YES	YES	YES	YES	NO	YES	YES
Lease Payment	YES[4]	YES	YES[4]	YES[4]	NO	YES	YES[4]
Joint Development	YES	YES	YES	YES	NO	YES	YES
Cross-Border Lease	YES	YES	YES	YES	NO	YES	YES
Super Turnkey	YES	YES	NO	YES	NO	YES	YES
Delayed Local Match	YES	YES	YES	YES	NO	YES	YES
Toll Revenue Credit	YES	YES	YES	YES	NO	YES	YES

1 This assumes use of Section 3 funds for the activity, or use of Section 3 funded property for the activity. The capabilities apply equally to CMAQ funds, in the clean air context.

2 Sections 11(b), 20 and 26 are primarily training, research and development, not involving capital expenditures. However, it is conceivable that bonds or other debt could be issued in support of these activities.

3 There is no prohibition against the use of these funds, but their use is unlikely, unless FTA chose to initiate very innovative technology demonstration projects

4 But only if pre-approved, at this point. FTA is considering whether to extend leasing authority to Section 3, 16, 18 and CMAQ programs on a more routine basis.

NOTE: The Federal Transit Act (as amended) has been codified as Chapter 53 of Title 49 in the United States Code. Therefore, throughout the text, where a reference appears to a section of the Federal Transit Act, it is recodified as follows:

- Section 3 is recodified at 49 U.S.C. 5309.
- Section 9 is recodified at 49 U.S.C. 5307.
- Section 11(b) is recodified at 49 U.S.C. 5317.
- Section 16 is recodified at 49 U.S.C. 5310.
- Section 18 is recodified at 49 U.S.C. 5311.
- Section 20 is recodified at 49 U.S.C. 5322
- Section 26 is recodified at 49 U.S.C. 5320.