

Attachment B

Gibson, Valerie

From: Tellis, Ray (FTA) <Ray.Tellis@dot.gov>
Sent: Thursday, May 12, 2022 8:41 PM
Subject: IMPORTANT: Price adjustments allowed for existing Federally-funded contracts where permissible

CAUTION: This email was delivered from the Internet. Do not click links or open attachments unless you *know* the content is safe. Report phish using the Phish Alert Button. [Learn more](#)

Dear Colleagues:

To meet the unique opportunities and challenges of this moment, all of us in the public transportation community are working closely together for our shared success. With President Biden's signing of the Bipartisan Infrastructure Law, there is an unprecedented level of Federal funding available for transit, and ridership is on the rise as we continue to recover from the COVID-19 pandemic. At the same time, however, the transportation sector faces challenges, including labor shortages, supply chain issues, and cost pressures.

FTA has received inquiries about whether FTA recipients are permitted to adjust existing contracts to address recent price increases. All recipients should take every reasonable measure to control costs and be good stewards of Federal dollars wherever possible. The applicable Federal requirements on adjusting existing contracts are contained in the OMB Uniform Guidance (codified at 2 CFR Part 200), which is the Federal regulation establishing uniform administrative requirements, cost principles, and audit requirements for Federal grant awards. In certain circumstances, the OMB Uniform Guidance permits the parties to an existing federally-funded contract to modify the contract for several reasons, including price adjustments. When permitted to modify a contract, FTA recipients are responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. 2 CFR § 200.318(k).

Whether a particular modification is permissible—and what Federal requirements apply—will depend on a variety of factors, including the terms and conditions of that contract (e.g., change clauses, Producer Price Index adjustment clauses, and Consumer Price Index adjustment clauses); applicable state, local, or tribal procurement law; the terms of a price adjustment; and the scope of the contract modification.

Your FTA Region 9 program managers are available to provide technical assistance regarding the Federal requirements applicable to contract modifications. In addition, Federal resources may be available to FTA recipients to pay for the increased cost attendant to contract modifications. For example, the Bipartisan Infrastructure Law significantly increased transit funding levels nationwide for FTA's Urbanized Area Formula Program, State of Good Repair Formula Program, and Rural Area Formula Program, along with the Federal Highway Administration's flexible funding programs eligible for public transportation projects, including the Surface Transportation Block Grant and Congestion Mitigation and Air Quality programs.

The DOT Build America Bureau's credit assistance from the Transportation Infrastructure Finance and Innovation Act (TIFIA) or Railroad Rehabilitation and Improvement Financing (RRIF) loan programs also may be available.

Related online FTA resources include:

- FTA Circular 4220.1F, Third Party Contracting Guidance
- FTA Circular 5010.1F, Award Management Requirements
- FTA Best Practices Procurement and Lessons Learned Manual

We look forward to our work together delivering the Bipartisan Infrastructure Law.

Thank you.

**Ray Tellis
Regional Administrator
FTA Region 9**