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From: "Edwards, Tyrhonda (FTA)" <tyrhonda.edwards@dot.gov>

Date: 2/16/17 11:44 AM (GMT-05:00)

To: Jeff Mann <jmann@gotriangle.org>

Subject: Durham- Orange LRT Project Follow-Up

Good Morning Mr. Mann,

Thank you for speaking with us by phone on February 15 about your request for the Durham-Orange LRT project to enter the Engineering phase of the Capital Investment Grant (CIG) program. This email serves to summarize the conversation we had and further clarify the documentation needed by FTA to proceed. If you have any questions about this information, please let us know.

Based on our review of the documentation provided to date by GoTriangle, FTA does not believe 30 percent of the non-CIG funding is committed to the project as required to enter the Engineering phase. The local cost sharing agreement provided by GoTriangle as proof of the local funding commitments is outdated, quoting a project cost of \$1.3 billion rather than the current \$2.5 billion. The agreement clearly states that "in the event the capital costs exceed the current estimated total of \$1.3 billion, the parties agree to discuss a response to the situation. Such response may include but not be limited to a schedule delay in one or more aspects of the LRT project, a reduction in the scope of the LRT project, a combination of these measures, discontinuation of the LRT project, or other reasonable steps." Additionally, the agreement does not specify the revenues each jurisdiction is willing to pay. Rather, it specifies only a percentage of the total project cost assigned to each jurisdiction and that amount includes Federal funding, state funding (which the agreement states would be 25 percent) and local funding. Given that we know the state funding will not exceed 10% based on a state law passed since the local agreement was originally signed, it is unclear to FTA what exact dollar amount the local funding partners have agreed to provide.

GoTriangle also provided FTA with recently signed Memoranda of Understanding (MOUs) between GoTriangle and the three local jurisdictions. While these MOUs indicate the jurisdictions' continued support of the project, they specifically say "the parties acknowledge the MOU does not create an enforceable fiscal obligation."

Other interlocal agreements submitted by GoTriangle also raise additional concerns regarding the commitment of local revenues to the project. For example:

- The Implementation Plans for Durham and Orange Counties state that if there is an increase in the Project cost of 10 percent or more it is deemed a "Material Change" and such a change is only effective with the approval of the Durham and Orange Boards of County Commissioners, the Durham-Chapel Hill-Carrboro MPO, and GoTriangle. It does not appear that these approvals from these jurisdictions have been obtained by GoTriangle.

- Based on the financial plan submitted to FTA in December 2016, GoTriangle would need to issue limited obligation bonds that would be secured with dedicated local revenues. The local funding agreements do not include the planned amount of bond proceeds and local revenues that would be needed to make debt service payments. Again, it is unclear to FTA whether the agreements would need to include this information for GoTriangle to have the authority to issue the proposed debt.

In a written response provided by GoTriangle to FTA on January 12, it was stated that work is currently underway to update the Durham and Orange Transit Plans and get more funding committed to the project. GoTriangle stated these approvals were anticipated to be completed April 2017.

Therefore, FTA will provide GoTriangle until April 2017 to submit additional information to FTA documenting the commitment of at least 30 percent of the non-CIG funding required to enter the Engineering phase. The documentation submitted by GoTriangle must clearly identify the amount of non-CIG funds committed from a given revenue source and demonstrate no further approvals would be necessary to obtain the funds from that source.

If GoTriangle is unable to provide the necessary documentation showing at least 30% of the non-CIG funding is committed by the end of April 2017, no further extensions of the Project Development phase will be approved. Per FTA's Final Interim Policy Guidance, "the project will automatically be withdrawn from PD. Project sponsors must complete the work activities . . . before they would be allowed to apply for entry into the Engineering phase of the CIG program. Any work performed after withdrawal from PD and prior to re-entry into Engineering would not be covered by pre-award authority and would be ineligible for reimbursement at a future date should FTA ultimately award a construction grant agreement."

Please contact us if you have any questions.

Thank you.
Tyrhonda Edwards
Federal Transit Administration
Office of Planning and Environment (TPE)
1200 New Jersey Ave, SE
Washington, DC 20590
Phone: 202-366-8521

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