



June 28, 2023

**Via Email Only**

Katherine Andrews, Associate General Counsel  
Amalgamated Transit Union  
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Silver Spring, MD 20903  
Email: [13c@atu.org](mailto:13c@atu.org)

Coree Cuff Lonergan  
General Manager and Director of Transportation  
Broward County Mass Transit Division  
115 S Andrews Ave., Ste. 409  
Fort Lauderdale, FL 33301  
Email: [ccufflonergan@broward.org](mailto:ccufflonergan@broward.org);

RE: **DETERMINATION AND  
RESPONSE TO OBJECTION and JOINT REQUEST TO EXPEDITE  
FOR PENDING FTA GRANT APPLICATIONS**  
Broward County Board of County Commissioners  
FL-2023-027 and FL-2023-029

Dear Ms. Andrews and Ms. Lonergan:

This is in response to the June 6, and June 8, 2023 letters from Ms. Andrews, on behalf of Amalgamated Transit Union Local 1267 (Union), objecting to the Proposed Terms for Employee Protection Certification contained in the Department's referral letters of the above captioned grants. This also responds to the Union and Broward County Board of County Commissioners (Grantee) Joint Stipulation, June 26, 2023, request to expedite the Department's process provided under its guidelines at [29 C.F.R. § 215.3](#).

The ATU asserted in its timely objection to the Department's referral that SB 256 precludes the Grantee from preserving collectively bargained rights as required by 49 U.S.C. § 5333(b)(2)(a) and from continuing collective bargaining rights as required by 49 U.S.C. § 5333(b)(2)(b). The Department has addressed this objection in connection with several pending Florida grants, and pursuant to our guidelines at 29 C.F.R. § 215.3(d)(3), found the ATU objection sufficient.<sup>1</sup> As such, the Department determines that the Union's instant objection to the grants referenced above is likewise sufficient in that it concerns a change in legal circumstances that may materially affect the rights or interests of transit employees.

Upon determining that an objection is sufficient the Department may order the parties to negotiate and/or discuss specified issues that the Department deems appropriate. *Id.* § 215.3(d)(6), (f). If the parties cannot reach an agreement or other resolution, the Department may order briefing over

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<sup>1</sup> June 13, 2023 Response to Objection and Negotiation Order for FL-2023-021; June 14, 2023 Response to Objection and Negotiation Order for FL-2023-022 and FL-2023-024.

unresolved issues. *Id.* § 215.3(e). In this case, however, the parties submitted a joint request to expedite our process and issue a final decision. The parties request that the Department notify the Grantee that in light of CS 256, the Grantee's protective arrangement covering mass transit employees does not meet the requirements of 49 U.S.C. § 5333(b) and that the application of CS 256 in full to employee organizations which represent employees of the Grantee would jeopardize its continued eligibility to receive Federal Transit Administration funding.

The stipulation sets forth that upon receipt of the Department's determination, the Grantee will request a waiver from PERC for "(a) The prohibition on dues and assessment deductions provided in s. 447.303(1); (b) The requirement to petition PERC for recertification; and (c) The revocation of certification provided in s. 447.305(6) and (7)." Additionally, the parties seek confirmation from the Department that if the PERC issues the waiver authorized by the statute, the Grantee will be able to comply with the requirements of 49 U.S.C. § 5333(b) and continue its eligibility for Federal Transit Administration funding.

The Department determines the legislative changes required by CS 256 prevent the Grantee from complying with its previously certified protective arrangements covering mass transit employees and the requirements of 49 U.S.C. § 5333(b), and jeopardizes the Grantee's continued eligibility to receive Federal Transit Administration funding. The Grantee must obtain a waiver from the PERC exempting compliance with:

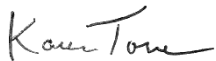
- (a) The prohibition on dues and assessment deductions provided in § 447.303(1);
- (b) The requirement to petition the commission for recertification; and,
- (c) The revocation of certification provided in § 447.305(6) and (7)

in relation to all employee organizations that have been certified as a bargaining agent to represent mass transit employees of the Grantee, including, but not limited to, the Union party to the instant stipulation.

In the event that a waiver is obtained and submitted to the Department, the Department will issue final certifications that include the waiver as part of its protective arrangements for any pending grant applications. The Department will also include the waiver as part of the protective arrangements in referrals for all future grants. The Grantee will notify the Department if at any time the waiver expires or becomes inapplicable.

If you have any questions or need any additional information, please email [OLMS-DSP@dol.gov](mailto:OLMS-DSP@dol.gov), with copy to all parties indicated in this letter.

Sincerely,



Karen Torre, Chief  
Division of Interpretations and Regulations  
(202) 693-1209

cc: see referral