



U.S. Department
of Transportation

**Federal Transit
Administration**

CIRCULAR

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Subject: FORMULA GRANTS FOR RURAL AREAS: PROGRAM GUIDANCE AND APPLICATION INSTRUCTIONS

1. **PURPOSE.** This circular is a reissuance of guidance on the administration and preparation of grant applications for the Formula Grants for Rural Areas Program under 49 U.S.C. 5311. This revision incorporates provisions of the Moving Ahead for Progress in the 21st Century Act (MAP-21; Pub. L. 112-141 (2012)), and includes the most current available guidance as of the date of publication.
2. **CANCELLATION.** When final, this circular will cancel FTA Circular 9040.1F, “Nonurbanized Area Formula Program Guidance and Grant Application Instructions,” dated April 1, 2007.
3. **AUTHORITY.**
 - a. Federal Transit Laws, Title 49, United States Code, Chapter 53.
 - b. 49 CFR 1.51.
4. **WAIVER.** FTA reserves the right to waive any provisions of this circular to the extent permitted by federal law or regulation.
5. **FEDERAL REGISTER NOTICE.** In conjunction with publication of this circular, FTA published a notice in the Federal Register on October 24, 2014, addressing comments received during development of the circular.
6. **AMENDMENTS TO THE CIRCULAR.** FTA reserves the right to amend this circular to reflect changes in other revised or new guidance and regulations that undergo notice and comment without further notice and comment on this circular. FTA will post updates on our website at www.fta.dot.gov. The website allows the public to register for notification when FTA issues *Federal Register* notices or new guidance. Please visit the website and click on “Connect with FTA” for more information.
7. **ACCESSIBLE FORMATS.** This document is available in accessible formats upon request. To obtain paper copies of this circular as well as information regarding these accessible formats, call FTA’s Administrative Services Help Desk at 202-366-4865. Individuals with hearing impairments may contact Federal Relay Service at 1-800-877-8339 for assistance with the call.

/S/ Original Signed By

Therese W. McMillan
Acting Administrator

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SECTION 5311 PROGRAM CIRCULAR

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I. INTRODUCTION AND BACKGROUND

1. **THE FEDERAL TRANSIT ADMINISTRATION (FTA)**. The Federal Transit Administration (FTA) is one of ten modal administrations within the U.S. Department of Transportation (DOT), and is headed by an administrator appointed by the president of the United States. The FTA functions through a headquarters office in Washington, DC, ten regional offices, and five metropolitan offices. These offices assist transit agencies in all fifty states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and federally recognized Indian tribes.

Public transportation means regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income. Public transportation generally includes, but is not limited to, transportation services provided by buses, heavy rail, light rail, commuter rail, fixed guideway, bus rapid transit, passenger ferryboats, trolleys, inclined railways, people movers, vans, streetcars, jitneys, and aerial tramways. Public transportation can be either fixed-route or demand-response service, but excludes intercity passenger rail provided by Amtrak, intercity bus service, charter bus service, school bus service, sightseeing services, courtesy shuttle services provided by individual businesses, and intraterminal or intrafacility shuttle services.

The federal government, through FTA, provides financial assistance to develop new transit systems and improve, maintain, and operate existing systems. FTA oversees thousands of grants to hundreds of state and local transit providers, primarily through its ten regional offices. These recipients are responsible for managing their programs in accordance with federal requirements, and FTA is responsible for ensuring that recipients follow federal statutory and administrative requirements.

2. **AUTHORIZING LEGISLATION**. Most federal transit laws are codified at Title 49 U.S.C. Chapter 53. Authorizing legislation is substantive legislation enacted by Congress that establishes or continues the legal operation of a federal program or agency. FTA's most recent authorizing legislation is the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, signed into law on July 6, 2012, and effective on October 1, 2012. This circular reflects changes to federal transit law as well as changes required by other laws that have become effective since the circular was last published in April 2007.
3. **HOW TO CONTACT FTA**. FTA's regional and metropolitan offices are responsible for providing financial assistance to FTA recipients and oversight of grant implementation for most FTA programs. Certain specific programs are the responsibility of FTA's headquarters offices. Inquiries should be directed to either the regional or metropolitan office responsible for the geographic area in which the recipient is located. See Appendix G, "FTA Regional and Metropolitan Contact Information," of this circular for more information.

Visit FTA's website, <http://www.fta.dot.gov>, or contact FTA headquarters at the following address and phone number:

Federal Transit Administration
Office of Communications and Congressional Affairs
1200 New Jersey Avenue SE
East Building
Washington, DC 20590
Phone: 202-366-4043
Fax: 202-366-3472

4. DEFINITIONS. All definitions in 49 U.S.C. 5302 and 5311 apply to this circular, as well as the following.
 - a. Appalachian Region. The term “Appalachian region” has the same meaning as in Title 40 U.S.C. 14102. Appalachian region means an area of the eastern United States consisting of several counties from the following states: Alabama, Georgia, Kentucky, Maryland, Mississippi, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.
 - b. Applicant. An entity that is seeking, but has not yet been awarded, specific federal financial assistance directly from FTA.
 - c. Capital Asset. Facilities or equipment with a useful life of at least one year.
 - d. Capital Project. A category of reimbursable project expenses that includes all activities identified in 49 U.S.C. 5302(3). Eligible activities under this project category are explained in Chapter III of this circular.
 - e. Consultation. One party confers with another identified party in accordance with an established process and, before taking action(s), considers that party’s views and periodically informs that party about action(s) taken.
 - f. Coordinated Plan. See “Locally Developed, Coordinated Public Transit-Human Services Transportation Plan.”
 - g. Electronic Clearing House Operation (ECHO) System. ECHO is a FTA Web-based application system that processes drawdown payment requests from FTA recipients.
 - h. Electronic Award Management System. A system that recipients and FTA use to manage grant applications, including the review, approval, and management of all grants. This system is used by recipients to submit financial status reports and milestone progress reports and to submit grant modification requests; this term includes FTA’s Transportation Electronic Award Management (TEAM) system and its successor.
 - i. Equipment. An article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost that equals or exceeds the lesser of the capitalization level established by the governmental unit for financial statement purposes, or \$5,000. Equipment includes rolling stock and all other such property used in the provision of public transit service.

- j. Federally Recognized Indian Tribal Government. The governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any native village as defined in Section 3 of the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]) certified by the secretary of the Interior as eligible for the special programs and service provided through the Bureau of Indian Affairs.
- k. Force Account. The use of a recipient's own labor force to accomplish a capital project.
- l. Governor. The governor of a state, the mayor of the District of Columbia, and the chief executive officer of a territory of the United States; and includes the designee of the governor.
- m. Grant. An award of financial assistance, including a Cooperative Agreement, in the form of money, or property in lieu of money, by the federal government to an eligible recipient or recipient. Used interchangeably with "grant agreement."
- n. Grant Application. A complete application for an award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by the federal government to an eligible recipient.
- o. Intercity Bus Service. Regularly scheduled bus service for the general public that operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, that has the capacity for transporting baggage carried by passengers, and that makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available.
- p. Job Access and Reverse Commute (JARC) Project. A transportation project to finance planning, capital, and operating costs that support the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, including transportation projects that facilitate the provision of public transportation services from urbanized areas and rural areas to suburban employment locations.
- q. Joint Development. A public transportation project that integrally relates to, and often co-locates with commercial, residential, mixed-use, or other non-transit development. Joint development may include partnerships for public or private development -associated with any mode of transit system that is being improved through new construction, renovation, or extension. Joint development may also include intermodal facilities, intercity bus and rail facilities, transit malls, or historic transportation facilities.
- r. Local Governmental Authority. A political subdivision of a state; an authority of at least one state or political subdivision of a state; an Indian tribe; and a public corporation, board, or commission established under the laws of a state.

- s. Locally Developed, Coordinated Public Transit-Human Services Transportation Plan. A plan that identifies the transportation needs of individuals with disabilities, older adults, and people with low incomes, provides strategies for meeting those local needs, and prioritizes transportation services for funding and implementation.
- t. Low-Income Individual. An individual whose family income is at or below 150 percent of the poverty line (as that term is defined in Section 673(2) of the Community Service Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section) for a family of the size involved.
- u. Master Agreement. The FTA official document containing FTA and other cross-cutting federal requirements applicable to the FTA recipient and its project(s). The Master Agreement is incorporated by reference and made part of each FTA grant, Cooperative Agreement, and amendment thereto.
- v. Metropolitan Planning Organization (MPO). The policy board of an organization designated in cooperation with the state and public transportation operators to carry out the metropolitan planning process, including development of long-range transportation plans and transportation improvement programs for metropolitan planning areas of a state.
- w. Mobility Management. Consists of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a government entity, under 49 U.S.C. Chapter 53 (other than Section 5309). Mobility management does not include operating public transportation services.
- x. National Transit Database (NTD). The NTD is FTA's primary source for information and statistics collected from transit systems that receive FTA formula funding under the Urbanized Area Formula Program (Sec. 5307) or Rural Area Formula Program (Sec. 5311). Public transportation systems receiving funds from these programs are required by statute to report to the NTD.
- y. Preventive Maintenance. Maintenance costs related to vehicles and nonvehicles. Specifically, it is defined as all the activities, supplies, materials, labor, services, and associated costs required to preserve or extend the functionality and serviceability of the asset in a cost effective manner, up to and including the current state of the art for maintaining such an asset.
- z. Preaward Authority. The authority given under specific and limited circumstances to incur costs for eligible projects before a grant is made without prejudice to possible federal participation in the cost of the projects(s). Applicants must comply with all federal requirements. Failure to do so will render a project or costs ineligible for FTA financial assistance.
- aa. Program of Projects (POP). A list of projects to be funded in a grant application submitted to FTA by a state. The program of projects lists the subrecipients and indicates

whether they are private nonprofit agencies, public bodies, or private providers of transportation service; designates the areas served (including congressional districts); and identifies any tribal entities. The program of projects also identifies intercity bus and RTAP projects. In addition, the program of projects includes a brief description of the projects, total project cost and federal share for each project, and the amount of funds used for program administration from the 10 percent allowed.

- bb. Public Transportation. The term “public transportation” means regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age (older adults), disability, or low income; and does not include: intercity passenger rail transportation provided by the entity described in Chapter 243 (Amtrak) (or a successor to such entity); intercity bus service; charter bus service; school bus service; sightseeing service; courtesy shuttle service for patrons of one or more specific establishments; or intraterminal or intrafacility shuttle services.
- cc. Rebuild. Rebuild is a capital expense associated with rolling stock that occurs at or near the end of a unit of rolling stock’s useful life, and which results in an extended useful life for the unit of rolling stock consistent with the extent of the rebuilding.
- dd. Recipient. An entity that receives a grant of formula program funds directly from FTA.
- ee. Regional Transportation Planning Organization (RTPO). Designated organization to enhance the planning, coordination, and implementation of statewide strategic long-range transportation plans and transportation improvement programs, with emphasis on addressing the needs of nonmetropolitan areas of the state.
- ff. Rural Area. An area encompassing a population of less than fifty thousand people that has not been designated in the most recent decennial census as an “urbanized area” by the secretary of Commerce.
- gg. Senior. An individual who is sixty-five years of age or older.
- hh. Shared Use. Those instances in which a project partner, separate from the transit agency or recipient, occupies part of a larger facility and pays for its pro rata share of the construction, maintenance, and operation costs. Shared uses are determined at the time of grant award.
- ii. Small Urbanized Areas. As used in the context of FTA formula grant programs, small urbanized areas are urbanized areas with a population of at least fifty thousand but less than two hundred thousand.
- jj. State. A state of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.
- kk. Statewide Transportation Improvement Program (STIP). A statewide prioritized listing/program of federally funded transportation projects covering a period of four years that is consistent with the long-range statewide transportation plan, metropolitan

transportation plans (MTPs), and transportation improvement program (TIP), and required for projects to be eligible for funding under Title 23 of the U.S. Code and 49 U.S.C. Chapter 53.

- ll. Subrecipient. A state or local governmental authority, a nonprofit organization, or operator of public transportation or intercity bus service that receives federal transit program grant funds indirectly through a recipient.
 - mm. Takedown. An amount or percentage subtracted from the total dollar amount appropriated for a federal program before other apportionment or allocation of the funds. For example: The Tribal Transit Program and Rural Transportation Assistance Program (RTAP) is a takedown from the total amount appropriated by Congress under the Formula Grants for Rural Areas Program (Section 5311).
 - nn. Transportation Improvement Program (TIP). A prioritized listing/program of transportation projects covering a period of four years that is developed and formally adopted by an MPO as part of the metropolitan transportation planning process, consistent with the MTP, and required for projects to be eligible for funding under Title 23 of the U.S. Code and 49 U.S.C. Chapter 53.
 - oo. Transit. The term “transit” means public transportation.
 - pp. Transit-oriented development (TOD). Compact, mixed-use development near transit facilities and high-quality walking environments. TOD leverages transit infrastructure and can promote ridership, local economic development, affordable housing, and private sector investment
 - qq. Urbanized Area (UZA). An area encompassing a population of not less than fifty thousand people that has been defined and designated in the most recent decennial census as an “urbanized area” by the secretary of Commerce.
 - rr. Welfare Recipient. An individual who has received assistance under a state or tribal program funded under part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.) at any time during the three-year period before the date on which the applicant applies for a grant under Section 5307 or 5311.
5. PROGRAM HISTORY. Before 1978, most federal transit assistance went to urban areas. In that year, in response to a DOT proposal, Congress created a new program through Section 313(a) of the Federal Public Transportation Act of 1978 (Pub L. 95-599). The new program, which created Section 18 of the Urban Mass Transportation Act (49 U.S.C. App. 1601 et seq.), provided public transportation funds for services in areas with populations of less than fifty thousand.

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Pub. L. 102-240) continued funding the program and introduced support for intercity bus service as a requirement under the rural program and formally authorized the Rural Transportation Assistance Program (RTAP). In 1994, legislation codified the federal transit program, changing the citation for the rural transit program from 49 U.S.C. app. 18, to 49 U.S.C. 5311.

The Transportation Equity Act for the 21st Century (TEA-21) (Pub L. 105-178) increased funding for all transit, including Section 5311. Furthermore, TEA-21 established guaranteed funding levels for Section 5311 programs. By 2003, the end of TEA-21's authorization period, annual federal rural transit funding reached \$240 million, an 80 percent increase from 1998 and a 266 percent increase from 1991. The flex fund transfer provision allowed states the ability to transfer additional funds to rural transit from their flexible funds available for either highway or transit projects and the formula transit funds for the small urbanized areas (between fifty thousand and two hundred thousand population). This provision significantly increased the funding available for rural transit.

The Safe, Affordable, Flexible, Efficient, Transportation Act a Legacy for Users (SAFETEA-LU) greatly increased funding for rural transit, proportionally more than the increase for other FTA programs. SAFETEA-LU also supplemented Section 5311 funding for growing states under the Section 5340 formula. SAFETEA-LU also established a new Tribal Transit Program as a takedown from Section 5311, and linked funding for RTAP to Section 5311 funding levels.

In 2012, the Moving Ahead for Progress in the 21st Century Act (MAP-21) increased funding for the rural program and modified the program's formula for the apportionment of funds. Under MAP-21, the majority of rural formula funds (83.15 percent) are apportioned based on land area and population factors. In this first tier, no state may receive more than 5 percent of the amount apportioned on the basis of land area. The remaining rural formula funds (16.85 percent) are apportioned based on land area, vehicle revenue miles, and low-income individuals factors. Vehicle revenue miles are a new service factor and the low-income individuals factor reflects that job access and reverse commute projects are now eligible under the program. In this second tier, no state may receive more than 5 percent of the amount apportioned on the basis of land area, or more than 5 percent of the amounts apportioned for vehicle revenue miles. In addition to funds made available under Section 5311, FTA adds amounts apportioned based on rural population according to the growing states formula factors of 49 U.S.C. 5340 to the amounts apportioned to the states under the Section 5311 formula.

In addition to the changes MAP-21 made to the Formula Grants for Rural Areas Formula Program, MAP-21 directed FTA to establish and implement broad public transportation safety and asset management regulations, which will apply to all recipients of FTA funding once finalized.

II. PROGRAM OVERVIEW

1. **SECTION 5311 STATUTORY AUTHORITY** The Formula Grants for Rural Areas Program, codified at 49 U.S.C. 5311 (Section 5311), is authorized under the provisions set forth in the Moving Ahead for Progress in the 21st Century Act (MAP-21), Public Law 112-141. Under this program, the secretary may make grants to assist states and local governmental authorities in financing capital, operating, planning, and job access and reverse commute projects, associated with providing public transportation in rural areas. The Catalogue of Federal Domestic Assistance (CFDA) number for the Formula Grants for Rural Areas Program is 20.509.

The state may use up to 10 percent of its Section 5311 program funds to administer the program and provide technical assistance to subrecipients. Technical assistance includes project planning, program and management development, public transportation coordination activities, and research the state considers appropriate to promote effective delivery of public transportation in rural area. Planning activities are an eligible expense under Section 5311, and shall be in addition to funding awarded to a state under Section 5305 for planning activities that are directed specifically at the needs of rural areas in the state. There is no limitation on use of Section 5311 funds for operating assistance; however, the state must use at least 15 percent of its annual apportionment to support intercity bus service, unless the governor certifies, after consultation with affected intercity bus providers, that the intercity bus needs of the state are adequately being met.

Annually, each state prepares and submits to FTA a program of projects. A state's program of projects must provide for fair and equitable distribution of funds within the state, including Indian reservations, and provide for maximum feasible coordination with transportation services assisted by other federal sources.

A state may pass through its Section 5311 program funds to subrecipients that are state or local governmental authorities, nonprofit organizations, operators of public transportation services, or intercity bus operators.

The Section 5311 program includes: the Rural Transit Assistance Program (RTAP); the Appalachian Development Public Transportation Assistance Program (ADTAP); and the Tribal Transit Program. The Tribal Transit Program has both a discretionary and a formula program.

- a. **RTAP**. Section 5311(b)(3) provides funding for the Rural Transportation Assistance Program (RTAP) as a 2 percent takedown from the amount authorized and appropriated for Section 5311. From the amounts made available for RTAP, the secretary may use up to 15 percent to carry out competitively selected projects of a national scope with the remaining balance allocated to the states. States can use RTAP funds for technical assistance, training, research, and related support activities.
- b. **ADTAP**. Section 5311(c)(2) authorizes and provides funding for a new Appalachian Development Public Transportation Assistance Program (ADTAP). This program is

funded with a takedown under the Section 5311 program to provide additional funding to states in the Appalachian region of the United States.

The formula is established based on Section 9.5(b) of the Appalachian Regional Commission Code (subtitle 40). Funds may be used for public transportation activities consistent with the formula grants for rural areas program. The funds are apportioned to the following states: Alabama, Georgia, Kentucky, Maryland, Mississippi, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.

States that are eligible for ADTAP may use amounts that cannot be used for operating expenses for a highway project if the governor approves the use in writing after appropriate notice and an opportunity for comment and appeal are provided to affected public transportation providers; and the governor has determined that the local transit needs are being addressed. In order for FTA to consider the transfer, a state must provide documentation to the FTA regional office that includes: a description of the consultation efforts used to establish stakeholder involvement (i.e., state, local transit operators, and local MPO) and a certification that the funds cannot be used for operating. Upon receipt, FTA will review the request and, if approved, will transfer the funds consistent with FTA's transfer process. (Please see Chapter III of this circular regarding transfer provisions.)

- c. Tribal Transit. The Tribal Transit Program is authorized at Section 5311(c)(1) and includes a discretionary and a formula program; \$25 million in formula funds and \$5 million in discretionary funds are authorized for this program. There is a three-tier structure for formula funds distribution. Tribal Transit funds should not replace or reduce funds that Indian tribes receive from states through the Section 5311 program. Please see Chapter IX for more information on this program.

2. PROGRAM GOALS.

Pursuant to 49 U.S.C. 5311, FTA apportions or awards funds to states, Indian tribes, or other eligible recipients located in rural areas for planning, public transportation capital projects, operating costs, job access reverse commute projects, and the acquisition of public transportation service. The Section 5311 program supports both the maintenance of existing public transportation services and the expansion of those services through the following program goals:

- a. enhancing access in rural areas to health care, shopping, education, employment, public services, and recreation;
- b. assisting in the maintenance, development, improvement, and use of public transportation systems in rural areas;
- c. encouraging and facilitating the most efficient use of all transportation funds used to provide passenger transportation in rural areas through the coordination of programs and services;

- d. providing financial assistance to help carry out national goals related to mobility for all, including seniors, individuals with disabilities, and low-income individuals;
 - e. increasing availability of transportation options through investments in intercity bus services;
 - f. assisting in the development and support of intercity bus transportation;
 - g. encouraging mobility management, employment-related transportation alternatives, joint development practices, and transit-oriented development; and
 - h. providing for the participation of private transportation providers in rural public transportation.
3. STATE ROLE IN PROGRAM ADMINISTRATION. To the extent permitted by law, FTA gives the states maximum discretion in designing and managing the Section 5311 program to meet its rural public transportation needs. Where possible, FTA defers to a state's development of program standards, criteria, procedures, and policies to provide the state with the flexibility it needs to standardize its management of FTA assistance and related state programs.

In addition, under the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (Common Grant Rule) at 49 CFR part 18, DOT permits a state to rely on its own laws and procedures instead of federal procedures in the areas of financial management systems, equipment, and procurement. As noted in 49 CFR part 18, a state may pass its procedures down to its subrecipients that are public authorities. Similarly, when a private provider of public transportation services enters into a third party contract with a state or public subrecipient of a state, as opposed to a subagreement, the state's procedures will apply to the third party contract. However, private, nonprofit subrecipients must comply with the "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" at 49 CFR part 19. FTA delegates authority to the state whenever allowed.

- a. Role of the State Agency. The governor designates a state agency that will have the principal authority and responsibility for administering the Section 5311 program. Specifically, the role of the state agency is to:
 - (1) document the state's procedures in a state management plan (SMP);
 - (2) notify eligible local entities of the availability of the program;
 - (3) plan for future transportation needs, and ensure integration and coordination among diverse transportation modes and providers;
 - (4) solicit applications;
 - (5) develop project selection criteria;

- (6) review and select projects for approval;
 - (7) forward an annual program of projects and grant application to FTA;
 - (8) certify eligibility of applicants and project activities;
 - (9) ensure compliance with federal requirements by all subrecipients;
 - (10) monitor local project activity;
 - (11) oversee project audit and closeout; and
 - (12) file an NTD report each year for itself and each subrecipient.
- b. State Administration of Projects. A state agency may carry out a project directly. The state must exercise adequate oversight to ensure that only eligible activities receive federal assistance and that subrecipients meet federal requirements. In administering the project, the state must:
- (1) provide for appropriate technical assistance for rural areas;
 - (2) ensure that there is a fair and equitable distribution of program funds within the state, including funds to Indian tribes;
 - (3) ensure a process whereby private transit operators are provided an opportunity to participate, including private providers of public transportation services, through service agreements with operators of public transportation services or as subrecipients;
 - (4) expend funds for the support of intercity bus transportation to the extent required by law; and
 - (5) provide for maximum feasible coordination of public transportation services assisted by FTA with transportation services assisted by other federal programs.

4. FTA ROLE IN PROGRAM ADMINISTRATION.

- a. FTA headquarters serves a broad, program level role in the administration of the program. FTA headquarters:
 - (1) provides overall policy and program guidance for the Section 5311 program;
 - (2) apportions funds annually to the states;
 - (3) develops and implements financial management procedures;
 - (4) initiates and manages program support activities; and
 - (5) conducts national program reviews and evaluations.

- b. FTA regional offices have the day-to-day responsibility for administration of the program. The regional office:
 - (1) reviews and approves state grant applications;
 - (2) obligates funds; manages grants; oversees the state's implementation of the annual program, including revisions to the program of projects;
 - (3) receives state certifications;
 - (4) reviews and approves state management plans (SMPs);
 - (5) provides technical assistance, advice, and guidance to the state as needed; and
 - (6) performs state management reviews every three years, or as circumstances warrant.

FTA conducts state management reviews. The reviews examine the state's management procedures, based on the approved SMP. In each area reviewed, a finding is made of compliance or deficiency with corrective action to be taken within a scheduled time frame. FTA places emphasis on providing the information needed to help the state come into compliance with federal requirements in all areas. FTA periodically conducts state management review seminars to assist the states in understanding the requirements. If a particular problem area is observed, a more detailed oversight review may be scheduled in such areas as procurement, financial management, drug and alcohol testing, Americans with Disabilities Act of 1990 (ADA), Title VI of the Civil Rights Act of 1964, or any other area.

5. RELATIONSHIP TO OTHER FTA PROGRAMS. Other public transportation-related federal programs may provide support for Section 5311 projects that enhance the effectiveness of these programs. The following is a brief discussion of existing programs, including programs that were repealed, but for which funding remains available, and those newly authorized under MAP-21.
 - a. Repealed Programs. MAP-21 repealed a number of public transportation programs that existed under the previous authorization. Funds that were authorized under these programs remain available for obligation in a grant until the applicable statutory period of availability expires, or until the funds are fully expended, rescinded by Congress, or otherwise reallocated. The relationship of each of these repealed programs to the Rural Area Formula Program is described below.
 - (1) Clean Fuels Grant Program (Section 5308).

The Clean Fuels Grant Program was a discretionary grant program that assisted in financing the acquisition of clean fuel rolling stock and clean fuel-related facilities for agencies providing public transportation and operating in an urbanized area (UZA) designated as a nonattainment area for ozone or carbon monoxide under Section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)), or a maintenance area for ozone or carbon monoxide.

Funds allocated under this program in fiscal year 2012 and prior years will remain available for obligation until they lapse or are expended. Funds apportioned for this program are subject to the program rules and requirements at the time they were apportioned. Grants under this program are subject to the applicable requirements of 49 U.S.C. 5307.

(2) Bus and Bus Facilities Program (Section 5309).

The Bus and Bus Facilities Program (Section 5309) was a discretionary grant program for bus transit projects. This program was repealed under MAP-21 and replaced with the Section 5339 Bus and Bus Facilities Formula Program.

From 2010 through 2012, FTA allocated discretionary funding under this program to proposals solicited through several notices of funding availability (NOFAs), including the State of Good Repair Initiative, the Bus Livability Initiative, and Veterans Transportation and Community Living Initiative.

Funds awarded in response to these NOFAs are available for obligation until they lapse, and are subject to the program terms and requirements at the time of allocation.

(3) Job Access and Reverse Commute Program (JARC) (Section 5316).

The Job Access and Reverse Commute Program (JARC Program) (Section 5316) was a formula grant program for projects that improve access to employment-related transportation services for welfare recipients and eligible low-income individuals, and that transport residents of urbanized and rural areas to suburban employment opportunities. This program was repealed by MAP-21. Funds that were apportioned to urbanized and rural areas for fiscal year 2012 and prior years will remain available for obligation until they lapse or are expended, and remain subject to the program requirements at the time they were apportioned. Guidance for funds apportioned under the Section 5316 JARC Program is contained in FTA Circular 9050.1, "The Job Access and Reverse Commute (JARC) Program Guidance and Application Instructions."

While the Section 5316 JARC Program was repealed under MAP-21, job access and reverse commute projects are now an eligible project type under the Rural Area Formula Program. Please see Chapter III, Eligibility, for a list of project types and requirements under Section 5311.

(4) New Freedom Program (Section 5317).

The New Freedom Program (Section 5317) was a formula grant program that provided funding for capital and operating expenses to support new public transportation services beyond those required by the ADA and new public transportation alternatives beyond those required by the ADA designed to assist individuals with disabilities with accessing transportation services. The purpose of the New Freedom formula grant program was to provide additional resources to overcome existing barriers facing Americans with disabilities seeking integration into

the workforce and full participation in society. Guidance for funds apportioned under the Section 5317 New Freedom Program is contained in FTA Circular 9045.1, "New Freedom Program Guidance and Application Instructions."

The New Freedom Program was repealed by MAP-21. Unexpended funds apportioned for fiscal year 2012 and prior years will remain available for obligation until they lapse or are expended, and are subject to the rules under which they were apportioned.

While the Section 5317 New Freedom Program was repealed under MAP-21, similar projects are eligible under the Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Formula Program. Program information is available in FTA Circular 9070.1G.

(5) Paul S. Sarbanes Transit in Parks Program (Section 5320).

The Paul S. Sarbanes Transit in Parks Program (Section 5320) was a discretionary grant program that provided funding for "alternative transportation" projects within or in the vicinity of federal lands. The goals of the program were to enhance the protection of America's national parks, refuges, forests, and other federal lands and to increase the enjoyment of visitors. This program was established under SAFETEA-LU and repealed by MAP-21.

FTA announced the final allocation of discretionary Transit in Parks funds in February 2013. Funds under this program remain available until they are expended, and are subject to the program requirements at the time they were made available. Projects undertaken outside of federal lands must comply with all metropolitan and nonmetropolitan and statewide planning requirements.

b. New and Revised Programs Under MAP-21.

(1) Urbanized Area Formula Assistance Program (Section 5307). Title 49 U.S.C. 5307 provides funding for capital assistance, planning, and operating assistance for public transportation in UZAs. For small UZAs with populations less than two hundred thousand, FTA apportions funds to the governor or the governor's designee(s) for use in small urbanized areas. Section 5307(g) deems the Virgin Islands a small UZA for the purposes of Section 5307. Hence, FTA apportions Section 5307 funds to the Virgin Islands in lieu of Section 5311 funds.

In large UZAs with populations over two hundred thousand, FTA makes funds available to the designated recipient(s) for capital and planning assistance.

A number of urbanized area recipients of Section 5307 funds also receive Section 5311 funds to carry out projects in outlying rural areas. The governor has the authority to transfer Section 5307 funds apportioned to the state for small UZAs to supplement the state's Section 5311 apportionment. Transferred funds retain their local share requirements under Section 5307 (i.e., sliding scale does not apply). The governor may also transfer Section 5311 funds to supplement the state's

apportionment of Section 5307 funds for small UZAs. These transfer provisions give governors greater flexibility to allocate formula transit funds in both urbanized and rural areas to enable states to fully utilize available funds.

Guidance for the Section 5307 Urbanized Area Formula Program is available in the most recent version of FTA Circular 9030.

(2) Public Transportation Emergency Relief Program (Section 5324).

The Section 5324 Public Transportation Emergency Relief Program (ER Program) was newly authorized by MAP-21. The ER Program allows FTA to make grants to public transportation agencies that undergo serious damage as the result of an emergency, such as a flood, hurricane, tornado, tsunami, or other external cause that affects a wide area, and for which the governor of a state or the president has declared an emergency or major disaster.

FTA may make grants under the ER Program for capital projects to protect, repair, reconstruct, or replace equipment and facilities that are in danger of suffering serious damage or have suffered serious damage as a result of a declared emergency. In addition, FTA may reimburse operating expenses associated with storm preparation, immediate response, and recovery efforts, including evacuations, rescue operations, temporary public transportation service, and the cost of reestablishing, expanding, or relocating public transportation route service before, during, or after an emergency.

FTA has implemented this program in coordination and cooperation with the Federal Emergency Management Agency (FEMA), and will work with FEMA in the aftermath of any disaster to provide support and assistance for any affected agency's recovery efforts. Grants under this program, or those made under Sections 5307 or 5311 to address a declared emergency, are subject to the terms and conditions that FTA determines are necessary. FTA will not provide funding for any expenses that are reimbursed by FEMA. This program is implemented by regulation under 49 CFR part 602.

(3) State of Good Repair Formula Program (Section 5337).

The Section 5337 State of Good Repair Formula Program is a formula grant program that provides funding to urbanized areas with fixed guideway systems and high intensity motorbus systems. The program helps maintain these public transportation systems in a state of good repair by financing replacement and rehabilitation projects for existing fixed guideway systems and high intensity motorbus systems that have been operating for at least seven years. This program was established under MAP-21, which concurrently repealed the Section 5309 Fixed Guideway Modernization formula grant program.

The state of good repair formula funds must be used for capital projects to replace and rehabilitate fixed guideway systems and high intensity motorbus systems. Eligible projects include the replacement and rehabilitation of rolling stock, tracks, line equipment and structure, signals and communications, power equipment and

substations, passenger stations and terminals, security equipment and systems, maintenance facilities and equipment, operational support equipment (including computer hardware and software), and development and implementation of transit asset management plans.

FTA apportions state of good repair formula funds to designated recipients in the UZAs according to a statutory formula. The fixed guideway formula is applicable to fixed guideway projects using and occupying a separate right-of-way for the exclusive use of public transportation; using rail; using a fixed catenary system; for a passenger ferry system; or for a bus rapid transit (BRT) system and comprises: (1) a modified version of the formula used under the now repealed fixed guideway rail modernization program, and (2) vehicle revenue miles and directional route miles that are attributable to a UZA. High intensity motorbus apportionments are 60 percent based on vehicle revenue miles and 40 percent based on directional route miles. Additional information on the Section 5337 State of Good Repair Formula Program will be available in a separate FTA circular.

(4) Bus and Bus Facilities Formula Program (Section 5339).

The Section 5339 Bus and Bus Facilities Program is a formula grant program that provides funding to states and UZAs for bus-related capital projects. This program was established under MAP-21, which concurrently repealed the Section 5309 Bus and Bus Facilities discretionary grant program.

Under the Section 5339 Bus and Bus Facilities formula program, a portion of the funds are allocated through an initial national distribution to states. The remaining funds are apportioned consistent with the formula under 5336 (other than subsection (b)) to states and UZAs on the basis of population, vehicle revenue miles, and passenger miles. Section 5307 requirements apply to Section 5339 grants. The governor of a state or the governor's designee may transfer funds apportioned under the nation distribution to supplement amounts apportioned under the Rural Area (Section 5311(c)) or Urbanized Areas Formula (5307) programs. However, the law does not allow Section 5339 funds apportioned pursuant to the Section 5336 formula to be transferred to the Section 5307 or 5311 programs.

States are responsible for administering the funds apportioned to small UZAs, which includes applying directly to FTA for the funds.

Additional information on the Section 5339 Bus and Bus Facilities Formula Program, including transfer provisions to Section 5307, can be found in the successor to FTA Circular 9100, which FTA expects to publish as FTA Circular 5100.

(5) Transit-Oriented Development Planning Pilot Program (TOD).

The Transit-Oriented Development Planning Pilot Program is a new FTA program established by Section 20005(b) of MAP-21. This program provides funding to advance planning efforts that support transit-oriented developments (TOD) associated

with new fixed guideway and core capacity improvement projects. TOD focuses growth around transit stations to promote ridership, affordable housing near transit, and revitalized downtown centers and neighborhoods and to encourage local economic development. In addition, funds from Section 5307 and Section 5311 may be used to support planning projects that receive funding under this program, or may be used for joint development capital projects relating to transit-oriented developments.

(6) Transportation Alternatives Program (FHWA – 23 U.S.C. 213(b)).

The Transportation Alternatives Program (TAP) is administered by the Federal Highway Administration (FHWA). TAP provides funding for programs and projects defined as transportation alternatives, including on- and off-road pedestrian and bicycle facilities, infrastructure projects for improving nondriver access to public transportation and enhanced mobility, community improvement activities, and environmental mitigation; recreational trail program projects; safe routes to school projects; and projects for the planning, design, or construction of boulevards and other roadways largely in the right-of-way of former interstate system routes or other divided highways.

TAP funds are allocated to states based on each state's proportional share of fiscal year 2009 Transportation Enhancements funding. States are responsible for administering the program within the state and for allocating funds to urbanized and rural areas according to a statutory formula based on population. In UZAs with a population of two hundred thousand or more, projects are selected by the MPO. In rural and small UZAs, projects are selected by the state through a competitive process.

(7) Federal Lands Access Program (FHWA – 23 U.S.C. 204).

The Federal Lands Access Program is a grant program administered by the FHWA. This program provides funding to states and local governments for projects to improve transportation facilities that provide access to, are adjacent to, or are located within federal lands, and for which ownership or maintenance responsibility is vested in the state or local government.

The Access Program provides funding to supplement state and local resources for public roads, transit systems, and other transportation facilities, with an emphasis on high-use recreation sites and economic generators. The program is designed to provide flexibility for a wide range of transportation projects in the fifty states, the District of Columbia, and Puerto Rico. Funds are allocated according to a statutory formula, which is based in part on the proportion of federal lands that exist within each state. A Programming Decisions Committee (PDC) within each state makes programming decisions and is responsible for developing a multiyear program of projects.

The PDC in each state is comprised of a representative from FHWA, the state, and of affected local governments. The PDC is required to consult with public transit agencies that operate in the vicinity of federal lands in developing its list of projects. Eligible transit projects include all planning, capital, and operating assistance projects eligible under FTA's grant programs.

The Access Program complements the FHWA Federal Lands Transportation Program (FLTP), which provides funding for transportation facilities owned or maintained by federal land management agencies.

(8) Federal Highway Administration "Flexible" Programs.

Certain FHWA transportation programs allow recipients to transfer funds to FTA for public transportation projects that are eligible under the FHWA program and under Section 5311. When such "flexible" fund transfers are made for eligible transit projects, FTA will administer these funds in a separate Section 5311 grant. Guidance on the eligibility of these funds for transfer and associated requirements is provided in Chapter V of this Circular, "Availability of FHWA 'Flexible' Funds for Transit Projects."

III. GENERAL PROGRAM INFORMATION

1. APPORTIONMENTS.

- a. Designated State Agency. The governor of each state or an official designee must designate a state agency with the requisite legal, financial, and staffing capabilities to receive and administer federal funds under the Section 5311 program. Existing designations remain in effect until changed by official notice of redesignation to the FTA regional administrator. The designated state agency is the recipient for all Section 5311 funds within the state that the designated state agency applies for on its own behalf or on behalf of subrecipients. The state agency may be the recipient on behalf of Indian tribes that are subrecipients, or a federally recognized tribe may elect to apply to FTA as a recipient of 5311 funds, after a state allocates the funds to that tribe.
- b. Apportionment of Section 5311 Funds. FTA apportions Section 5311 funds to the states by a statutory formula using the latest available U.S. decennial census data. The majority of rural formula funds (83.15 percent) are apportioned based on land area and population factors. In this first tier, no state may receive more than 5 percent of the amount apportioned on the basis of land area. The remaining rural formula funds (16.85 percent) are apportioned based on land area, vehicle revenue miles, and low-income individuals factors. Vehicle revenue miles are a new service factor and the low-income individuals factor reflects that job access and reverse commute projects are now eligible under the program. In this second tier, no state may receive more than 5 percent of the amount apportioned on the basis of land area, or more than 5 percent of the amounts apportioned for vehicle revenue miles. In addition to funds made available under Section 5311, FTA adds amounts apportioned based on rural population according to the growing states formula factors of 49 U.S.C. 5340 to the amounts apportioned to the states under the Section 5311 formula. Before FTA apportions Section 5311 funds to the states, FTA subtracts funding from the total available amounts for the Appalachian Development Transportation Assistance Program, the Tribal Transit Program, the Rural Transportation Assistance Program (RTAP), and FTA oversight activities.
- c. Funds Availability. Section 5311 funds remain available to the states for obligation for three federal fiscal years, beginning with the year of apportionment plus two additional years. For example, funds apportioned to a state in fiscal year 2014 are available until September 30, 2016. Any funds remaining unobligated at the end of the period of availability are added to the next year's program apportionment and are reapportioned among all states.

Funds that a state deobligates from an approved program of projects during the period of availability remain available to the state for reobligation during the period that the funds were originally available to the state. Funds deobligated after the period of availability lapse to the state and return to FTA. FTA then reapportions these funds among all the states.

If a state carries funds over from one fiscal year to the next, it should obligate the oldest funds first. If a grant contains funds from more than one fiscal year, FTA will disburse the oldest funds first. However, if a grant included funds restricted to nonoperating projects (e.g., transfer of flex funds), restricted funds would be disbursed for a capital drawdown, even if older nonrestricted funds remained available in the grant.

States can make revisions without changing the scope of the program of projects and can also make revisions that do change the scope but only if there are sufficient undisbursed funds remaining that are within their period of availability. Chapter IV provides more information on procedures for revising an approved program of projects.

- d. Transfer of Apportionments. Funds may be transferred to certain other programs to balance state transit and highway needs or to streamline grant administration. The transfer of funds from other programs to Section 5311 does not increase the amount of funds required to be expended for intercity bus. The transfer of funds must be reflected in the STIP before they can be transferred.
 - (1) Notification of Transfer. The state initiates the transfer of FTA funds by notifying FTA's regional administrator of its intent to transfer funds. Notices to transfer funds to the state's Section 5311 apportionment should include the following: (1) Information on the entity that the funds were originally allocated to; (2) the amount of funds to be transferred, the fiscal year in which they were apportioned, and the program section(s) (e.g., Section 5307); and (3) contact information if questions arise that the state must address before FTA can process the transfer. A notice of transfer of funds must also include the specific rural projects to which the state will apply the transferred funds.
 - (2) Transfer of Section 5307 Funds to Section 5311. The governor may transfer any amount of the state's apportionment for small UZAs under two hundred thousand in population to supplement the state's Section 5311 program. The governor may make such transfers only after consultation with responsible local officials and publicly owned operators of public transportation services in each area to which the funding was originally apportioned. The governor may transfer funds without consultation within the last ninety days in which the funds are available for obligation, for use anywhere in the state.

If Section 5307 funds are transferred to supplement a state's Section 5311 apportionment, any capital or operating assistance limitations applicable to the Section 5307 apportionment apply to amounts transferred to Section 5311. For example, the sliding scale for Federal share available under Section 5311 does not apply to funds transferred from Section 5307.

In addition, the period of availability of the transferred funds remains that of the Section 5307 apportionment (six-year period of availability), which is three years longer than the same year's Section 5311 apportionment (three-year period of availability). The transfer of Section 5307 funds to Section 5311 does not increase the

- amount of Section 5311 funds that the state may use for administration, planning, and technical assistance with no local share.
- (3) Transfer of Section 5311 Funds to 5307. The governor may also transfer Section 5311 funds to supplement Section 5307 funds that FTA apportioned to the state for UZAs with populations less than two hundred thousand. The governor may transfer funds without consultation within the last ninety days in which the funds are available for obligation, for use anywhere in the state. The period of availability of the transferred funds is that of the Section 5311 apportionment (three years).
 - (4) Transfer of Section 5310/5316/5317 Funds to Section 5311. Funds apportioned in fiscal year 2013 or later for Section 5310 (Enhanced Mobility for Seniors and Individuals with Disabilities Formula Program) may not be transferred to Section 5311. Funds apportioned in fiscal year 2012 and earlier for the Section 5310 (Elderly Individuals and Individuals with Disabilities), 5316 (Job Access and Reverse Commute (JARC)), and 5317 (New Freedom) may be transferred to the Section 5311 program. The purpose of the transfer provision is not to supplement the resources available under the state's Section 5311 apportionment, but to allow the state to apply in one grant for projects selected under those programs that will be implemented by Section 5311 subrecipients. If the state does choose to consolidate fiscal year 2012 and earlier funds in a Section 5311 grant application, FTA has established new scope codes: (641) for Section 5310 projects, (646) for Section 5316 projects, and (647) for Section 5317 projects included within a Section 5311 or 5307 grant. The state must track, manage, and report on each program's funds separately within the consolidated grant.
 - (5) Limitations. Transferred funds are subject to any limitations applicable to the original apportionment of the funds, not of the receiving program. For example, transfer of part of a state's Section 5311 apportionment to small UZAs does not reduce the amount of the Section 5311 apportionment subject to the intercity bus requirement. Transfer of part of a state's Section 5311 apportionment to small UZAs does not reduce the amount of Section 5311 funds the state may use to administer its Section 5311 program (i.e., 10 percent of the Section 5311 apportionment). The state may not use the sliding scale match for transferred Section 5311 funds obligated in a Section 5307 grant. The period of availability of the transferred funds is that of the Section 5311 apportionment (three years).
 - (6) Transfer of FHWA Flexible Funds. A state may transfer Surface Transportation Program (STP) funds, Congestion Mitigation and Air Quality (CMAQ) funds, and certain other flexible funds, from FHWA to FTA to use for transit projects. States, in cooperation with affected local officials, select projects in rural areas with populations less than fifty thousand (excluding projects on the National Highway System [NHS] and projects funded with bridge and interstate maintenance funds).

With limited exceptions, FTA treats STP, CMAQ, or other flexible funds transferred to Section 5311 under the program requirements applicable to Section 5311. Capital and project administration are eligible with an 80 percent federal share or applicable

sliding scale share for eligible states. States may use up to, but no more than, 10 percent of the transferred funds for state administration, planning, and technical assistance. No local share is required for state administration. Flex transfers to Section 5311 do not increase the amount the state must spend for intercity bus service under Section 5311(f). The period of availability of flexible funds transferred to Section 5311 is three years.

(7) Transfer of Appalachian Development Public Transportation Program Funds. The funds apportioned under Appalachian Development Public Transportation Assistance program under Section 5311(c)(2) permits transfers to FHWA for highway projects if the funds cannot be used for operating expenses. In order for FTA to consider the transfer, a state must provide documentation to the FTA regional office that includes: a description of the notice and comment process and appeal provided to affected public transportation providers rural transit operators, and local Appalachian Regional Commission offices, a statement that the funds cannot be used for operating expenses, and a certification by the governor that the rural transit needs are being addressed. Upon receipt, FTA will review the request and if approved transfer the funds consistent with FTA's transfer process. Appeals may be submitted in writing to the FTA administrator.

e. Consolidation of Grants to Insular Areas. FTA grants to insular areas may be consolidated under the provisions of 48 U.S.C. 1469a. This provision permits federal agencies to streamline and consolidate certain grant-in-aid programs available to the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. These insular areas receive Section 5311 apportionments and RTAP allocations annually as well as Section 5310 funds and, in some cases, Section 5307 funds. If there are carry over funds available for prior year funding for programs that were repealed under MAP-21, those funds are eligible for consolidation (i.e., Section 5316 and 5317). Specifically, 48 U.S.C. 1469a permits:

- (1) Federal agencies to consolidate any or all grants to each of the insular areas and to waive requirements for matching funds, applications, and reports with respect to the consolidated grants; and
- (2) Each insular area to use the consolidated grant funds for any purpose or program authorized for any of the consolidated grants.

FTA implements this consolidation of Section 5310, 5311, 5316, 5317, and 5339 funding into a single grant by transferring funds from one section to another, similar to the transfer of funds between Section 5311 and Section 5307 for small UZAs described above. The insular areas may transfer all or a portion of the funds apportioned for Section 5310, 5316, 5317, or 5339 to Section 5311 for use under any of these sections. This should improve the efficiency of grant making and grant management for these areas which have limited staff resources and receive small amounts of funds under each of these programs. Those insular areas interested in submitting applications for consolidated grants should notify the appropriate FTA regional office for application procedures and consolidation requirements. Among

other things, the area should identify the intended use of consolidated funds and should document that the transportation of seniors and people with disabilities will not be adversely affected.

In addition, 48 U.S.C. 1469a(d) allows a federal agency to waive any local matching share requirements for grants to insular areas. FTA has no authority under 48 U.S.C. 1469a to waive any cross-cutting requirements, such as Buy America or drug and alcohol testing.

2. ELIGIBILITY.

- a. Eligible Recipients and Subrecipients. Eligible recipients include states and Indian tribes that receive an FTA grant directly from the federal government. Eligible subrecipients include states and local governmental authorities, nonprofit organizations, and operators of public transportation or intercity bus service that receive FTA grant funds indirectly through a recipient. Eligible nonprofit organizations may also serve tribal transportation needs. In the case of intercity bus projects, private for-profit operators of transit services or intercity bus services may participate in the program as third party contractors for recipients, or as subrecipients. State agencies may limit subrecipient eligibility requirements in order to comply with state laws or to further program goals.

The purpose of the Section 5311 program is to support public transportation for people living in any area outside of a UZA as designated by the Bureau of the Census. A UZA consists of a core area and the surrounding densely populated area with a total population of fifty thousand or more, with boundaries fixed by the Bureau of the Census. Areas not within a UZA as of the 2010 Census are eligible for Section 5311 funding even if they are included within the metropolitan area planning boundary, which includes the surrounding area expected to be urbanized within twenty years and/or the air quality nonattainment boundary.

Since the goal of Section 5311 is to enhance the overall mobility of people living in rural areas, Section 5311 projects may include transportation to or from rural areas. The service area may include destinations across a state line. Operators of interstate service are required to comply with the Federal Motor Carrier Safety Administration (FMCSA) regulations.

- b. Tribes as Direct Recipients. Under 49 U.S.C. 5311, a federally recognized Indian tribe is an eligible direct recipient. Once the state has notified a federally recognized Indian tribe of the selection of its project(s) under the state administered Section 5311 program and the amount of funds that it will allocate to the tribe from its Section 5311 apportionment, the Indian tribe will then need to decide whether to receive funds as a subrecipient of the state or apply directly to FTA for Section 5311 funds. If the tribe notifies the state of its intent to become a direct recipient, the state will notify FTA by letter of the project(s) and amount of funds that it allocated to the Indian tribe.

As a direct recipient of Section 5311 funds not derived from the Section 5311(c) Tribal Transit Program, the Indian tribe must comply with all management requirements of the

Section 5311 program, and with all terms and conditions of FTA's standard grant agreements. The special terms and conditions that FTA developed for tribes receiving funding under the Tribal Transit Program are applicable only to that program.

- c. Eligible Service and Service Areas. States can use Section 5311 funds for public transportation projects, including job access and reverse commute projects, and intercity bus transportation projects in rural areas.

A state must spend at least 15 percent of its Section 5311 apportionment to develop and support intercity bus transportation, unless after consultation with affected intercity bus service providers it is determined that the intercity bus service needs of the state are met adequately. Chapter VIII of this circular provides more guidance on funding for intercity bus transportation.

- d. Incidental Use. The purpose of Section 5311 assistance is the provision of public transportation services and FTA encourages maximum feasible coordination with other rural transportation services. FTA policy and the Federal Interagency Coordinating Council on Access and Mobility (CCAM) policy on vehicle resource sharing allow vehicles to be used for purposes other than that specified in the original award on an incidental basis.

A rural transit provider may use a Section 5311 vehicle for nonpassenger transportation on an occasional or regular basis, such as package delivery, if this incidental use does not result in a reduction of service quality or availability of public transportation service. The incidental use policy does not preclude the recipient's use of Section 5311 assistance to support the transportation of passengers by a private provider that is not primarily engaged in passenger transportation. For example, a recipient may use Section 5311 funds to support a contract mail carrier that incidentally provides intercity passenger transportation, if the carrier has appropriate regulatory authority to carry passengers. Section 5311 funds may only be used to subsidize the passenger transportation services of the mail carrier.

A rural transit provider may design its Section 5311 funded services to maximize use by members of the general public who are transportation-disadvantaged. Transportation disadvantaged people include seniors, people with disabilities, and low-income individuals. Transit service providers receiving assistance under Section 5310 or Section 5311 may coordinate and assist in providing meal delivery service for homebound people on a regular basis, if the meal delivery services do not conflict with the provision of transit services or result in a reduction of service to transit passengers. FTA expects that the nutrition program will pay the operating costs attributable to meal delivery. Section 5311 capital assistance may not be used to purchase vehicles used solely for meal delivery or to purchase specialized equipment such as racks or heating or refrigeration units related to meal delivery.

- e. Joint Urbanized and Rural Projects. In some localities, a subrecipient receives both Section 5307 and 5311 funding to provide public transportation to urbanized and

surrounding rural areas. These subrecipients should use Section 5311 funds only to assist the rural portion of those localities.

Because of the wide range of circumstances under which an operator may provide services in both urbanized and rural areas, FTA expects the subrecipient to develop a reasonable basis related to the service provided, for allocating operating costs between the two FTA funding sources. The subrecipient should also apply this procedure to “joint” capital projects. Similarly, a subrecipient that purchases vehicles under either the Section 5307 or 5311 program for use in any part of a combined urbanized and rural service area should ensure that it has capital replacement policies in place to ensure that it is using program funds according to federal eligibility requirements. When there is a question as to the reasonableness of the subrecipient’s cost allocation methodology, FTA looks to the state to make a determination.

FTA Circular 9030 provides further guidance on the Section 5307 program.

3. ELIGIBLE ACTIVITIES

- a. State Administration, Planning, and Technical Assistance. The state may use not more than 10 percent of its apportioned Section 5311 funds, including funds apportioned under Section 5340 but not the RTAP allocation, to administer the Section 5311 program, related planning, and to provide technical assistance to subrecipients.

Allowable administrative costs include salaries, overhead expenses, supplies, and office equipment used to administer the program. Allowable technical assistance costs may include program planning, program development, development of vehicle and equipment specifications, management development, coordination of public transportation programs (public and private for-profit and nonprofit), and such research as the state may deem appropriate to promote effective means of delivering public transportation service in rural areas. No local share is required for these expenses. The state may pass any portion of these funds on to subrecipients for the same purposes and, at its discretion, may impose a local share requirement.

In addition, in accordance with 49 U.S.C. 5329(e)(6)(C)(iv), a recipient may use up to 0.5 percent of the Section 5311 apportionment to pay for safety certification training for employees directly responsible for safety oversight at an 80 percent federal share.

While the state may also use RTAP funds for many administrative and technical assistance activities, it is more appropriate to use state administrative funds for technical assistance activities directly related to the administration of the Section 5311 program, (e.g., conducting procurements and monitoring subrecipients). The state should use RTAP to deliver training and technical assistance needed by all rural providers of public transportation, and not only to subrecipients of the Section 5311 program.

FTA applies the state administration cap of 10 percent to the Section 5311 funds it apportions to the state each year. FTA encourages the state to include all the available state administration funds they intend to use in each annual grant application.

A state may choose to accumulate its state administration funds within the funds' period of availability to augment the administrative funds available for a special administrative need in a subsequent year (e.g., a major planning study for which current year administrative funds would be insufficient). For example, a state may program all of its first year apportionment for capital and operating projects, and then use an amount equal to 10 percent of the first year's apportionment in addition to the 10 percent of the second year's apportionment to fund a large planning study.

The period over which the state accumulates administrative funds may not exceed three years. If a state includes planning or state administration expenses in excess of the 10 percent administrative funds in its grant application, the state should document the unused state administration funds from prior years available to augment the funds in the current apportionment.

- b. Capital Expenses. Eligible capital expenses include the acquisition, construction, and improvement of public transit facilities and equipment needed for a safe, efficient, and coordinated public transportation system as well as certain other expenses classified as capital in Section 5302(3). Examples of eligible capital expenses include, but are not limited to:
- (1) buses;
 - (2) vans or other paratransit vehicles;
 - (3) radios and communications equipment;
 - (4) passenger shelters, bus stop signs, park and ride lots, and similar passenger amenities;
 - (5) wheelchair lifts and restraints;
 - (6) vehicle rehabilitation, remanufacture, or overhaul;
 - (7) preventive maintenance;
 - (8) extended warranties which do not exceed industry standards;
 - (9) the public transportation portion of ferryboats and terminals;
 - (10) operational support such as computer hardware or software;
 - (11) installation costs, vehicle procurement, testing, inspection, and acceptance costs;
 - (12) construction or rehabilitation of transit facilities including design, engineering, and land acquisition;
 - (13) facilities to provide access for bicycles to transit facilities or equipment for transporting bicycles on transit vehicles;

- (14) lease of equipment or facilities when a lease is more cost effective than purchase.
Note that when lease of equipment or facilities is treated as a capital expense, the state must establish criteria for determining cost effectiveness, in accordance with FTA regulations, "Capital Leases," 49 CFR part 639;
- (15) the capital portion of costs for service provided under contract. The capital cost of contracting includes depreciation and interest on facilities and equipment, as well as allowable capital costs such as preventive maintenance.

Under the capital cost of contracting, only privately owned assets are eligible. The recipient may not capitalize under the contract any capital assets (e.g., vehicle, equipment, or facility) that have any remaining federal interest in them, or items purchased with state or local government assistance. Similarly, recipients may not capitalize under the contract any costs incurred delivering services ineligible for FTA assistance (e.g., charter or school bus service). Recipients may compute capital costs as a fixed percentage of the contract without further justification. Appendix G provides additional information on the capital cost of contracting;

- (16) a joint development improvement that:
 - (a) enhances economic development or incorporates private investment, such as commercial and residential development;
 - (b) enhances the effectiveness of public transportation and is related physically or functionally to public transportation, or establishes new or enhanced coordination between public transportation and other transportation;
 - (c) provides a fair share of revenue that will be used for public transportation;
 - (d) provides that a person making an agreement to occupy space in a facility shall pay a fair share of the costs of the facility through rental payments and other means; and
 - (e) does not include outfitting of commercial space (other than an intercity bus or rail station or terminal) or a part of a public facility not related to public transportation.
 - (f) a joint development improvement may include:
 - 1. property acquisition;
 - 2. demolition of existing structures;
 - 3. site preparation;
 - 4. utilities;
 - 5. building foundations;

6. walkways;
 7. pedestrian and bicycle access to a public transportation facility;
 8. construction, renovation, and improvement of intercity bus and intercity rail stations and terminals;
 9. renovation and improvement of historic transportation facilities;
 10. open space;
 11. safety and security equipment and facilities (including surveillance, and related intelligent transportation system applications);
 12. facilities that incorporate community services such as daycare or health care;
 13. capital projects for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall; and
 14. construction of space for commercial uses;
- (17) the introduction of new technology, through innovative and improved products, into public transportation;
- (18) nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. 12143), but only for grant recipients that are in compliance with applicable requirements of the Act, including both fixed route and demand responsive service, and only for amounts not to exceed 10 percent of a recipient's annual formula apportionment under Section 5311;
- (19) establishing a debt service reserve, made up of deposits with a bondholder's trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under Chapter 53 of Title 49, United States Code;
- (20) mobility management, consisting of short-range planning, management activities, and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a governmental authority, but excludes operating expenses; or
- (21) associated capital maintenance, including equipment, tires, tubes, and material, each costing at least 0.5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment, tires, tubes, and material are to be used; and reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least 0.5 percent of the current fair

market value of rolling stock comparable to the rolling stock for which the equipment and material will be used.

- c. Operating Expenses. Operating expenses are those costs directly related to system operations. At a minimum, states must consider the following items as operating expenses: fuel, oil, drivers' salaries and fringe benefits, dispatcher salaries and fringe benefits, and licenses.

Only net operating expenses are eligible for assistance. Net operating expenses are those expenses that remain after the provider subtracts operating revenues from eligible operating expenses. States may further define what constitute operating revenues, but, at a minimum, operating revenues must include farebox revenues. Farebox revenues are fares paid by riders, including those who are later reimbursed by a human service agency or other user-side subsidy arrangement.

Farebox revenues do not include payments made directly to the transportation provider by human service agencies to purchase service. However, purchase of transit passes or other fare media for clients would be considered farebox revenue. A voluntary or mandatory fee that a university or similar institution imposes on all its students for free or discounted transit service is not farebox revenue. Payments made directly to the transportation provider by human service agencies and university fees passed on to the transit provider would be considered "program income" and may be used to reduce the net operating cost of the service or may be used as local match on the existing grant. The state may include operating assistance projects of up to two years' duration in its annual program of projects. FTA extends preaward authority for operating costs incurred as of the beginning of the local fiscal year but before grant award.

States may, in their discretion, treat maintenance as either operating or capital expenses for Section 5311 funding purposes. Similarly, for the Section 5311 program only, FTA gives states the option of classifying certain other expenses as either operating or nonoperating expenses (i.e., project administration). Even if these expenses are eligible for funding under Section 5311 at the capital match, the provider may classify these funds as operating expenses in its internal accounting system, under generally accepted accounting principles. However, for funding purposes, the state may not count the same cost twice.

- d. Project Administrative Expenses. Under the Section 5311 program, the state may treat project administrative expenses incurred by a local provider as a separate cost category from capital, planning, or operating expenses. This allows states to consider administrative expenses as "nonoperating" expenses. FTA may fund nonoperating expenses up to the 80 percent federal share or more if the state is eligible for the sliding scale of federal share (see below).

Eligible project administrative costs may include, but are not limited to: general administrative expenses (e.g., salaries of the project director, secretary, and bookkeeper); marketing expenses; insurance premiums or payments to a self-insurance reserve; office supplies; facilities and equipment rental; standard overhead rates; and the costs of

administering drug and alcohol testing. Interest on short-term loans for operating assistance is eligible as project administration if it is approved by the state. Additionally, administrative costs for promoting and coordinating ridesharing are eligible as project administration if the activity is part of a coordinated public transportation program.

- e. Planning. Planning is an eligible expense, providing that a grant under Section 5311 for planning activities shall be in addition to funding awarded to a state under Section 5305 for planning activities that are directed specifically at the needs of rural areas in the state. Planning projects must be included in the planning work program and can support efforts to:
- (1) develop transportation plans and programs;
 - (2) plan, engineer, design, and evaluate a public transportation project; and
 - (3) conduct technical studies relating to public transportation.

Eligible activities include the following:

- (a) Studies related to management, planning, operations, capital requirements, and economic feasibility.
 - (b) Evaluating previously financed projects.
 - (c) Peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analyses among metropolitan planning organizations and other transportation planners.
 - (d) Other similar and related activities preliminary to and in preparation for constructing, acquiring, or improving the operation of facilities and equipment.
- f. Job Access and Reverse Commute Projects. MAP-21 created a new eligible project category for “job access and reverse commute projects” under Section 5311. This category includes all types of projects that were formerly eligible under the Section 5316 Job Access and Reverse Commute Program. Examples of eligible projects are listed in paragraph (5) below. There is no requirement or limit to the amount of Section 5311 funds that can be used for these projects.

A job access and reverse commute project is defined in 49 U.S.C. 5302(9) as:

“a transportation project to finance the planning, capital and operating costs that support the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, including transportation projects that facilitate the provision of public transportation services from urbanized areas and rural areas to suburban employment locations.”

In order for a job access and reverse commute project to receive funding under Section 5311, it must meet the following requirements:

- (1) New and Existing Services. Eligible job access and reverse commute projects must provide for the development or maintenance of eligible job access and reverse commute services. In order to be eligible as a job access and reverse commute project, a proposed project must qualify as either a “development project” or “maintenance project” as follows:
 - (a) Development Projects. “Development of transportation services” means new projects that meet the statutory definition and were not in service as of the date MAP-21 became effective, October 1, 2012. This includes projects that expand the service area or hours of operation for an existing service. Projects for the development of new qualifying job access and reverse commute projects must be identified as such in the recipient’s program of projects (POP).
 - (b) Maintenance Projects. “Maintenance of transportation services” means projects that continue and maintain job access and reverse commute projects and services that received funding under the former Section 5316 program or were previously funded as JARC projects under Section 5311 program.
- (2) Reverse Commute Projects. Reverse commute projects are a category of job access and reverse commute projects that provide transportation services from urbanized and rural areas to suburban employment locations. Generally, these services increase the capacity of public transportation services operating in the reverse direction of existing peak services. Reverse commute projects may only qualify as job access and reverse commute projects under Section 5311 if they meet all other requirements, including having been designed to transport welfare recipients and eligible low-income individuals to and from jobs and employment-related activities.
- (3) Welfare Recipients and Eligible Low-Income Individuals. Projects funded as “job access and reverse commute projects” must be designed to provide transportation for welfare recipients and eligible low-income individuals. The term “low-income individual” is defined as an individual whose family income is at or below 150 percent of the poverty line, as that term is defined in Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section, for a family of the size involved. Projects that serve the general public without specific route or design characteristics intended to respond to the needs of these populations may not be eligible as job access and reverse commute project. However, job access and reverse commute projects do not need to be designed exclusively for these populations.
- (4) Planning and Program Development. In order for an entity to receive Section 5311 funding for a job access and reverse commute project, the project must be identified by the recipient as a job access and reverse commute project in the recipient’s program of projects (POP), which must be made available for public review and comment.

In addition, FTA encourages recipients to ensure that projects meet the employment-related transportation needs of welfare recipients and low-income individuals, either by deriving such projects from a locally coordinated public transportation/human services planning process that involves low-income communities and their stakeholders, or by an alternative process that engages low-income community stakeholders in the identification and development of the project.

- (5) Eligible Projects. Projects that comply with the requirements above may include, but are not limited to:
- (a) Late-Night and weekend service;
 - (b) Guaranteed ride home service;
 - (c) Shuttle service;
 - (d) Expanding fixed route public transit routes, including hours of service or coverage;
 - (e) Demand-responsive van service;
 - (f) Ridesharing and carpooling activities;
 - (g) Transit-related aspects of bicycling (such as adding bicycle racks to vehicles to support individuals that bicycle a portion of their commute, providing secure bicycle parking at transit stations, or infrastructure and operating expenses for bicycle sharing programs in the vicinity of transit stations, but does not include the acquisition of bicycles);
 - (h) Promotion, through marketing efforts, of the: (1) use of transit by low-income individuals and welfare recipients with nontraditional work schedules; (2) use of transit voucher program by appropriate agencies for welfare recipients and other low-income individuals; (3) development of employer-provided transportation such as shuttles, ridesharing, carpooling; or (4) use of transit pass programs and benefits under Section 132 of the Internal Revenue Code of 1986;
 - (i) Supporting the administration and expenses related to voucher programs. This activity is intended to supplement existing transportation services by expanding the number of providers available or the number of passengers receiving transportation services. Vouchers can be used as an administrative mechanism for payment to providers of alternative transportation services. Job access and reverse commute projects can provide vouchers to low-income individuals to purchase rides, including (1) mileage reimbursement as part of a volunteer driver program, (2) a taxi trip, or (3) trips provided by a human service agency. Providers of transportation can then submit the voucher to the FTA recipient or subrecipient administering the project for payment based on predetermined rates or contractual arrangements. Transit passes for use on fixed route or Americans with Disabilities Act of 1990 (ADA) complementary paratransit service are not

eligible. Vouchers are an operational expense which requires a 50 percent local match;

- (j) Supporting local car loan programs that assist individuals in purchasing and maintaining vehicles for shared rides, including the provision of capital loan guarantees for such car loan programs, provided the federal interest in the loan guarantee fund is maintained and the funds continue to be used for subsequent loan guarantees or are returned to the government upon the release of funds from each guarantee;
- (k) Implementing intelligent transportation systems (ITS), including customer trip information technology, vehicle position monitoring systems, or geographic information systems (GIS) software;
- (l) Integrating automated regional public transit and human service transportation information, scheduling, and dispatch functions;
- (m) Subsidizing the costs associated with adding reverse commute bus, train, carpool van routes, or service from urbanized area and nonurbanized areas to suburban work place;
- (n) Subsidizing the purchase or lease by a nonprofit organization or public agency of a van or bus dedicated to shuttling employees from their residences to a suburban workplace;
- (o) Otherwise facilitating the provision of public transportation service to suburban employment opportunities; and
- (p) Supporting mobility management and coordination programs among public transportation providers and other human service agencies providing transportation. Mobility management techniques may enhance transportation access for populations beyond those serviced by one agency or organization within a community. For example, under mobility management, a nonprofit agency could receive job access and reverse commute funding to support the administrative costs of sharing services it provides to its own clientele with other low-income individuals and coordinate usage of vehicles with other nonprofits, but not the operating costs of the service. As described under "Capital Projects," mobility management is intended to build coordination among existing public transportation providers and other transportation service providers with the result of expanding the availability of service.

4. FEDERAL/LOCAL MATCHING REQUIREMENTS.

- a. Planning and Capital Projects. The federal share for planning and capital projects that receive funding under the Section 5311 program may not exceed 80 percent of the net project cost. Net project cost is that portion of the cost of a project that cannot reasonably be financed from the recipient's revenues.

- b. Exceptions. The federal share may exceed 80 percent for certain projects related to the ADA, CAA, and certain bicycle projects as follows:
- (1) Vehicles. The federal share is 85 percent for the acquisition of vehicles for purposes of complying with or maintaining compliance with the Americans with Disabilities Act of 1990 (ADA; 42 U.S.C. 12101 *et seq.*) or the Clean Air Act (CAA; 42 U.S.C. 7401 *et seq.*). A revenue vehicle that complies with 49 CFR part 38 may be funded at 85 percent federal share.
 - (2) Vehicle-Related Equipment and Facilities. The federal share for project costs for acquiring vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying or maintaining compliance with the CAA, or required by the ADA, is 90 percent.

FTA considers vehicle-related equipment to be equipment on and attached to the vehicle.

The grant recipient may itemize the cost of specific, discrete, vehicle-related equipment being purchased to be in compliance with ADA or CAA. The federal share is 90 percent of the cost for these itemized elements.

- (3) Bicycle Facilities. As provided by 49 U.S.C. 5319, the federal share is 90 percent for those bicycle access projects or portions of bicycle access projects designed to:
 - (a) provide access for bicycles to public transportation facilities,
 - (b) provide shelters and parking facilities for bicycles in or around public transportation facilities, or
 - (c) install equipment for transporting bicycles on public transportation vehicles.
- (4) Sliding Scale. Higher federal share rates for capital costs are available to fourteen states described in 23 U.S.C. 120(b). The higher federal shares under 23 U.S.C. 120(b)(1), shown in Table 1, are based on the ratio of designated public lands area to the total area of these fourteen states. For FTA capital grants, the federal share increases from 80 percent in proportion to the share of public lands in the state. For FTA operating grants in these same states, the federal share increases from 50 percent to 62.5 percent (5/8) of the rate for capital grants.

Table 1: Sliding Scale Rates for FTA Section 5311 Grants (23 U.S.C. 120 (b)(1))
(Numbers represent the maximum federal share, as a percentage of net project cost.)

State	Sliding Scale Rate for Transit Capital Grants	Sliding Scale Rate for Transit Operating Grants	State	Sliding Scale Rate for Transit Capital Grants	Sliding Scale Rate for Transit Operating Grants
Alaska	90.97	56.86	Nevada	94.89	59.31
Arizona	90.49	56.55	New Mexico	85.44	53.40
California	83.57	52.23	Oregon	84.63	52.90
Colorado	82.79	51.75	South Dakota	81.95	51.22
Hawaii	81.30	50.81	Utah	89.52	55.95
Idaho	84.97	53.11	Washington	81.42	50.89
Montana	82.75	51.72	Wyoming	86.77	54.23
<i>Source: FHWA Notice N 4540.12, Attachment 1 (3/17/1992)</i>					

Additional higher federal share rates are shown in Table 2 and are based on the ratio of the area of nontaxable Indian land, public domain lands (reserved and unreserved), national forest, and national parks and monuments to the total area of each state. These rates are available only for states that have already in place signed agreements with FHWA under 23 U.S.C. 120(b)(2). For FTA Section 5311 projects, any state having such an agreement with FHWA is eligible for the higher federal match permitted in Section 120(b)(2). States may not enter into new Section 120(b)(2) agreements with FHWA for Section 5311 grants. In the absence of a Section 120(b)(2) agreement with FHWA, Section 120(b)(1) sets the sliding scale rates for Section 5311 grants.

Table 2: Sliding Scale Rates for FTA Section 5311 Grants
(Numbers represent the maximum federal share, as a percentage of net project cost.) *

State	Federal Share of 5311 Capital Grants	Federal Share of 5311 Operating Grants	State	Federal Share of 5311 Capital Grants	Federal Share of 5311 Operating Grants
Alabama	80.4	50.25	Nebraska	80.18	50.11
Alaska	94.95	59.34	Nevada	95	59.38
Arizona	94.3	58.94	New Hampshire	82.45	51.53
Arkansas	81.55	50.97	New Jersey	80.14	50.09
California	88.53	55.33	New Mexico	87.92	54.95
Colorado	87.31	54.57	New York	80.1	50.06
Connecticut	80.04	50.03	North Carolina	80.98	50.61
Delaware	—	—	North Dakota	80.93	50.58
Florida	81.93	51.21	Ohio	80.16	50.10
Georgia	80.48	50.30	Oklahoma	80.58	50.36
Hawaii	82.48	51.55	Oregon	89.73	56.08
Idaho	92.66	57.91	Pennsylvania	80.38	50.24
Illinois	80.15	50.09	Rhode Island	80.05	50.03
Indiana	80.17	50.11	South Carolina	80.63	50.39
Iowa	80	50.00	South Dakota	82.82	51.76
Kansas	80.05	50.03	Tennessee	80.66	50.41
Kentucky	80.58	50.36	Texas	80.22	50.14
Louisiana	80.41	50.26	Utah	93.23	58.27
Maine	80.28	50.18	Vermont	81.08	50.68
Maryland	80.11	50.07	Virginia	81.5	50.94
Massachusetts	80.12	50.08	Washington	86.5	54.06
Michigan	81.83	51.14	West Virginia	81.36	50.85
Minnesota	81.42	50.89	Wisconsin	81.11	50.69
Mississippi	80.83	50.52	Wyoming	90.49	56.56
Missouri	80.69	50.43	District of Columbia	83.15	51.97
Montana	86.58	54.11	Puerto Rico	80.25	50.16

*Including National Forests, national parks, and monuments.

Source: FHWA Notice N 4540.12, Attachment 1 (3/17/1992)

<http://www.fhwa.dot.gov/legsregs/directives/notices/n4540-12.htm>

- c. Operating Expenses. With respect to operating expenses, 49 U.S.C. 5311(g)(2) provides that the federal share shall not exceed 50 percent of the net operating cost of the project. For states eligible for the sliding scale match under 23 U.S.C. 120(b), the federal match for operating assistance is set at 62.5 percent of the match for capital projects in those states (see Tables 1 and 2).

Under Subsection 5311(g)(3)(A), funds received pursuant to a service agreement with a state or local social service agency or a private social service organization may be used as local match.

Income from contracts to provide human service transportation may be used either to reduce the net project cost (treated as revenue) or to provide local match for Section 5311 operating assistance (treated as program income). In either case, the cost of providing the contract service is included in the total project cost. Unlike other forms of program income, income from contracts to provide human service transportation may be used as the local match for the grant in which the income is generated.

The manner in which a subrecipient applies income from human service agencies to a project affects the calculation of net operating expenses and, therefore, the amount of Section 5311 operating assistance the project is eligible to receive. A state's method of suballocating its apportionment among its subrecipients is a discretionary action, subject only to the statutory requirements described in this circular. While a state may not prohibit a subrecipient from using income from human service agency contracts as a source of local match, the state may elect to regard the degree to which a subrecipient demonstrates local financial commitment to the project from other sources of local funds as a rating factor in its discretionary allocation decisions.

- d. State Administration and RTAP. No local share is required for state administration and RTAP.
- e. Sources of Local Match. Under Subsection 5311(g)(3), a local match for the remainder of net project costs:
 - (1) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a state or local social service agency or a private social service organization, or new capital;
 - (2) may be derived from amounts appropriated or otherwise made available to a department or agency of the government (other than DOT) that are eligible to be expended for transportation; or
 - (3) notwithstanding subparagraph (2), may be derived from amounts made available to carry out the Federal Lands Highway Program established by Section 202 of Title 23.
- f. Intercity Bus. In the case of intercity bus projects that will utilize the in-kind match provision codified in 49 U.S.C. 5311(g)(3)(D), details are discussed in Chapter VIII.
- g. Cost Incurred by Providers of Public Transportation by Vanpool. MAP-21 amends section 5323(i) "Government Share of Costs for Certain Project" to include a paragraph that permits FTA to allow a recipient to count, as part of their local match for a capital project, funds used to purchase vanpool vehicles by private providers of public vanpool (including funds from fare revenues above operating expenses but not including any funding from federal, state, or local government sources). For the costs to be eligible for a recipient's local share, the recipient and the provider must have entered into a legally

binding agreement requiring the provider to use the rolling stock in the recipient's service area.

h. Examples of nonfederal sources that may be used for any or all of the local share include:

- (1) state or local appropriations;
- (2) dedicated tax revenues;
- (3) private donations;
- (4) net income generated from advertising and concessions; and
- (5) in-kind match.

Recipients may count noncash shares such as donations, volunteered services, or in-kind contributions toward the local match only if the recipient formally documents the value of each noncash share, and if this value represents a cost that would otherwise be eligible under the project. The net project cost must include the value of any in-kind contributions included in net project cost to the extent it is used as local match. States should reference Federal Administrative Rules for Grants and Cooperative Agreements, 49 CFR parts 18 and 19, for more information.

Recipients may use funds from other federal agencies (non-DOT) for the entire local match if the other agency makes the funds available to the recipient for the purposes of the project. The only DOT funds that states can use as local match for Section 5311 projects are from the Federal Lands Highway Program authorized at 23 U.S.C. 204.

A state cannot use Section 5310 or other FTA funds as match for Section 5311 program funds. Even though funds are made available to the rural transit provider through a service agreement with a state or local social service agency or private social service organization, FTA funds may not be used as match because they are derived from a DOT program.

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IV. PROGRAM DEVELOPMENT

1. **FAIR AND EQUITABLE DISTRIBUTION.** The program of projects the state submits to FTA for approval must provide for fair and equitable distribution of the apportionment in the state, including Indian reservations, as well as maximum feasible coordination with other public transportation services assisted by other federal sources. The state should document its process for selecting applicants consistent with the state management plan as outlined in Chapter VI. The Tribal Transit Program funds set aside for Indian tribes are not meant to replace or reduce funds that Indian tribes receive from states through the Section 5311 program but should be used to enhance public transportation on Indian reservations and other tribal transit services. FTA encourages states to use the increase in funding for rural transit under MAP-21 to support expansion of transit service to areas without service and to improve the level of service or coverage in areas that have minimal service.
2. **PLANNING REQUIREMENTS.** A state requesting Section 5311 assistance must comply with the planning requirements of 49 U.S.C. 5303 through 5305. Projects proposed for Section 5311 funding must be a product of the statewide and nonmetropolitan transportation planning process and/or the metropolitan planning process specified in the joint Federal Highway Administration (FHWA)/FTA planning regulations at 23 CFR part 450 and 49 CFR part 613. With limited exceptions, states must include all federal funds to be used for highway or transit projects in a statewide transportation improvement program (STIP) consistent with 23 U.S.C. 135 and 49 U.S.C. 5304. States must include Section 5311 funds in the STIP. Unlike the annual program of projects that the state submits with its grant application, the STIP must cover four program years. For purposes of the STIP, the state may group its planned expenditures of Section 5311 and Rural Transportation Assistance Program (RTAP) funds into broad statewide projects, such as vehicle acquisition for rural transportation services, operating assistance, intercity bus projects, facility construction, state administration, and training and technical assistance. The state also may show the Section 5311 apportionment as one aggregate project.
3. **PERFORMANCE-BASED PLANNING.** MAP-21 establishes a broad performance management program that brings significant changes to both the metropolitan transportation planning and statewide and nonmetropolitan transportation planning processes. The performance management framework attempts to improve project decision making through performance-based planning and programming and to foster a transparent and accountable decision-making process for MPOs, states, and providers of public transportation.
 - a. **Establishment of a Performance Based Approach.** The statewide transportation planning process should provide for the establishment and use of a performance-based approach to transportation decision making to support the national goals described in 23 U.S.C. 150(b), the program goals for 49 U.S.C. 5311 in Chapter II Section 2 of this Circular, and the general purposes described in 49 U.S.C. 5301. In the development of the long-range statewide transportation plan, States must include performance targets that address the transit safety and transit state of good repair performance measures established by U.S. DOT under 23 U.S.C. 150(c) and 49 U.S.C. 5329.

- (1) The State DOT's long-range transportation plans should also include a system performance report and subsequent updates evaluating the condition and performance of the transportation system with respect to the established performance targets.
- (2) The STIP must demonstrate the linkage between investment priorities and the performance targets by including a discussion of the anticipated effect of the STIP toward achieving the performance targets established in the transportation plan.

The Performance Based Planning and Program Guidebook can be accessed at http://www.fta.dot.gov/documents/Performance_Based_Planning_and_Programming_Guidebook.pdf.

- b. State Designation of Regional Transportation Planning Organizations (RTPOs). To carry out the statewide transportation planning process, a State may establish and designate regional transportation planning organizations.
 - (1) A State may establish and designate regional transportation planning organizations to enhance the planning, coordination, and implementation of statewide strategic long-range transportation plans and transportation improvement programs, with an emphasis on addressing the needs of nonmetropolitan areas of the state.
 - (2) If a State chooses not to establish or designate a regional transportation planning organization, the state should consult with affected nonmetropolitan local officials to determine projects that may be of regional significance.

For further guidance on planning, programming, and project selection see the joint FHWA/FTA planning regulations at 23 CFR part 450 and 49 CFR part 613.

4. INTERCITY BUS CONSULTATION REQUIREMENT. Section 5311(f) requires each state to expend at least 15 percent of its annual Section 5311 apportionment "to carry out a program to develop and support intercity bus transportation," unless the governor certifies that "the intercity bus service needs of the state are being met adequately." Additionally, Section 5311(f) requires a state to consult with intercity bus providers before the governor makes this certification. The requirement to spend at least 15 percent applies only to the amount of FTA's annual apportionment of Section 5311 funds to the state; it does not apply to any funds the state subsequently transfers to its Section 5311 program from another program. Chapter VIII provides additional information about the intercity bus provisions of Section 5311(f).
5. PROGRAM OF PROJECTS (POP). The program of projects (POP) identifies the subrecipients and projects for which the state is applying for financial assistance. The Section 5311 annual program of projects the state submit(s) to FTA for approval must indicate the total number of subrecipients; identify each subrecipient and indicate whether they are governmental authorities, private nonprofit agencies, or private providers of transportation services; and identify any that are Indian tribal governments or tribal transit agencies (including both federally recognized and other tribal governments). The program of projects must show, for each project, a brief description of counties, or tribal needs served, total project cost, and the federal share.

So that FTA can comply with the Federal Funding Accountability and Transparency Act (FFATA) of 2006 (Pub. L. 109-282), enacted September 26, 2006, the state must provide FTA with the following information for each subrecipient: the name of the entity receiving the award, the amount of the award, and the location of the entity receiving the award and the primary location of performance under the award, including the city, state, and congressional district. The state will submit this information as a separate attachment in the FTA electronic award management system or include the information in the POP.

Separate from the listing of rural transit projects and subrecipients in Category A and B, the program of projects should list together and subtotal the projects and subrecipients that support intercity bus transportation as required by Section 5311(f). It should also describe specific RTAP projects within the broad areas of eligibility (Chapter IX provides more information on developing an RTAP program of projects). The program of projects also includes any funds the state will use for planning, technical assistance, and administration, within the 10 percent limitation, and any other projects the state will carry out directly.

The total federal funding level for the program of projects cannot exceed the total amount of Section 5311 funds available, including funds from the current fiscal year apportionment, unobligated carryover funds from previous years and funds transferred from other FTA programs, or flexible funds for highway or transit. After the state submits the annual program of projects and other application requirements, FTA will review, approve, and obligate funds for the total amount of funds available.

- a. Categories of Approval. FTA's approval of a program of projects does not reflect unconditional approval of all projects within the program, nor does FTA's approval of a program of projects reflect unconditional approval of all prospective subrecipients identified in the program. FTA recognizes that not all projects in a state program of projects may be at the same stage of development, and therefore, not all applications to the state may be complete at the time the state forwards its annual program of projects to FTA. FTA also recognizes that all subrecipients identified in the program of projects may not yet be in compliance with all applicable federal requirements. Therefore, to expedite grant award, FTA allows states to separate projects and funds included in its program of projects into two different categories, depending on how completely the subrecipients have met federal requirements.
 - (1) Category A. Projects in Category A include those projects that the state has certified as having met all the federal statutory and administrative requirements for approval applicable to both the project activities, and subrecipient that will carry out those activities. FTA's approval of Category A projects is unconditional upon grant award. When the state executes the grant, the state may start drawing down funds to implement projects in Category A. FTA expects most, if not all, of the projects included in the state's program of projects to be in this category. If there are funds that have not been advanced to Category A within the period of availability, FTA will deobligate and reallocate lapsed funds to the overall 5311 program in a subsequent year apportionment.

- (2) Category B. Projects in Category B include those projects that the state anticipates approving during the current year, but that have not yet met all federal statutory and/or administrative requirements. For example, a project in Category B may be a project that lacks certification by the state to the Department of Labor (DOL) that the subrecipient has signed the special labor protection warranty. Similarly, a major capital project other than vehicle purchase(s) in Category B may be a project that has not yet completed the National Environmental Policy Act (NEPA) process or other federal environmental requirements. Projects may also be in Category B when a subrecipient has not yet met all applicable Federal requirements.

When the state determines that necessary federal requirements have been satisfied for a project, FTA's approval of that project becomes unconditional, and the state may advance the project to Category A. Cash drawdowns for that project may commence after the state advances the project to Category A. In addition, any Category B project requires issuance of a NEPA record of decision (ROD), a finding of no significant impact (FONSI), or determination that the project meets the conditions of a categorical exclusion (CE) from FTA before being advanced to Category A. Chapter XI provides additional information on NEPA and other federal environmental laws, regulations, and executive orders. A state should not list any projects in Category B, if it can list all of its projects in Category A.

- b. Revisions to Program of Projects. The state may revise an approved program of projects without constituting a change in scope, which would require the deobligation and reobligation of funds. The scope of the grant is the approved program of projects in its entirety. The addition of federal funds to the approved program of projects is a change in the scope of the approved program of projects and requires an amendment of the grant agreement.

For changes that affect the budget line items in the grant budget, the recipient will notify FTA by setting up a budget revision in the FTA electronic award management system. For those changes that only affect the program of projects (POP), the recipient should attach a new program of projects to the "project management milestones" section and then notify FTA, via e-mail, that it has attached the new program of projects. In addition, recipients should also notify FTA of changes to the program of projects when they submit their annual program status report.

Below are examples of project and funding revisions that do not change the scope of the approved program of projects. Unless FTA notifies the state otherwise, the following levels of notification and FTA approval apply to revisions:

- (1) Revisions Not Requiring Prior Notification or FTA Approval. The state may make the following revisions without any prior notification to or approval by FTA:
- (a) Delete a project from the POP, if the project cost is less than 20 percent of the total of the affected POP;

- (b) Advance projects from Category B to A, provided the prospective subrecipient is in compliance with all applicable federal requirements;
 - (c) Reallocate funds within an approved POP among approved projects within a local area or from one local area to another. This includes adjustments of local project funding levels to accommodate changes in vehicle or equipment requirements;
 - (d) Add equipment or property transferred from one subrecipient to another subrecipient listed in the POP, regardless of whether the items were originally funded from a different grant;
 - (e) Transfer funds designated for intercity bus projects within the program of projects for use in other intercity bus projects, or to other projects if more than the required percentage has been allocated for intercity bus projects and the transfer of funds to another project would not reduce the intercity funding below the required percentage; and
 - (f) Transfer funds designated for RTAP projects within the program of projects for use in other RTAP projects.
- (2) Revisions Requiring Notification to FTA, But Not FTA Approval. The state may make the following revisions after notifying FTA:
- (a) Create new projects that are less than 20 percent of the total of the POP, so long as the state has confirmed eligibility;
 - (b) Delete or reduce a project by more than 20 percent of the total POP.
- (3) Revisions Requiring FTA Approval. The state may make the following revisions to an approved program of projects only after obtaining approval from FTA:
- (a) Prior FTA approval is required when the federal share of the grant exceeds \$100,000 and the cumulative amount of project funds to be transferred between or among activities, (including all budget revisions since the last one specifically approved by FTA) exceeds 20 percent;
 - (b) Prior FTA approval is required when the revision would transfer funds between operating and capital categories, or between activity line items with different federal matching ratios;
 - (c) Prior FTA approval is required if the budget revision would:
 - i. Change the size or physical characteristics of the activities specified in the grant. Example: A grantee's maintenance facility project increased the number of bus bays from five to eight and requires more land, resulting in a change in size and physical characteristics; or

- ii. Increase or reduce the number of revenue rolling stock vehicles to be purchased by more than two units.
- (d) Prior FTA approval is required to advance to Category A any prospective subrecipient with serious questions of compliance with federal requirements remaining unresolved; or
- (e) Prior FTA approval is required to advance to Category A any project for the acquisition of property with a value in excess of 20 percent of the total value of the POP.

Note: Budget revisions are entered by representatives of grant recipients and are reviewed and approved by FTA staff. Contact your FTA regional office for assistance.

- (4) Update to Program of Projects. The most recently updated program of projects submitted by the state to FTA in its annual program status report or in the course of making revisions will be considered the approved program of projects, incorporated by reference in the grant agreement. Only the addition of federal funds or a change in the scope of the approved program of projects requires amendment of the grant agreement.
 - (5) FTA's Right to Defer Section 5311 Assistance. FTA reserves the right to require the state to defer providing Section 5311 funds to a subrecipient or project that raises serious questions about the compliance with civil rights or other requirements, until FTA finds the subrecipient or project in compliance or expressly approves the expenditure of Section 5311 funds involving that subrecipient or project.
6. CERTIFICATIONS AND ASSURANCES. To receive a grant under Section 5311, the designated state agency must annually assure FTA that the state and subrecipients meet certain requirements. The state should maintain adequate files documenting the basis for all assurances it makes to FTA.

Each fiscal year, FTA publishes the required certifications and assurances in the *Federal Register* and updates the certifications and assurances in the FTA electronic award management system. This notice indicates which certifications and assurances apply to all recipients or to certain kinds of awards, and which are required for grants under specific sections.

The state electronically submits the appropriate certifications and assurances each fiscal year for all active grants and new grants that it expects FTA to make during that fiscal year. Recipients should use the most recent version of current year notice for a list of required certifications and assurances FTA has issued. Recipients can find the current list in FTA electronic award management system. Certifications and assurances can also be accessed at http://www.fta.dot.gov/grants/12825_93.html.

7. PREAWARD AUTHORITY. FTA allows recipients to incur costs before grant award in the formula programs. In order for the preaward costs to be eligible for subsequent

reimbursement, the project must be approved in the STIP. The project also must have met all FTA statutory, environmental, procedural, and contractual requirements, thus must qualify as a “Category A” project in the program of projects. Reimbursement is subject to the availability of funds and grant award. Specific information is included in FTA’s annual apportionment notice, and in Chapter XI, part 13, of this circular.

8. GRANT AWARD AND PROJECT APPROVAL. FTA awards grants and obligates funds for the total amount for both categories and the Rural Transportation Assistance Program (RTAP) program of projects. FTA grant award constitutes approval of the state’s annual program of projects and those projects listed in Category A. However, a Section 5311 program of projects does not constitute unqualified approval of each project in the program. Grant award does constitute FTA approval of those projects in Category A. Thus the state may drawdown federal funds to reimburse expenses incurred for Category A projects immediately upon execution of the grant agreement.

The grant award also constitutes FTA’s unconditional approval of those projects in Category B, if the subrecipient meets all applicable federal requirements. The state must ensure that the subrecipient meets federal requirements, and advance the projects to Category A before it can drawdown funds to support Category B projects.

V. PROGRAM MANAGEMENT AND ADMINISTRATIVE REQUIREMENTS

1. **GENERAL.** The basic grant management requirements for state and local governments are contained in the U.S. Department of Transportation (DOT) regulations, “Uniform Administrative Requirements for Grants and Cooperative Agreements to state and Local Governments,” 49 CFR part 18. The comparable DOT rule for private nonprofit organizations is “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,” 49 CFR part 19. Parts 18 and 19 are collectively known as the “common grant rule” or “common rule.” The provisions of the common grant rule apply except where inconsistent with federal statutes, including authorizing legislation.

2. **PROGRAM ADMINISTRATIVE REQUIREMENTS.** The common grant rule identifies three areas in which the administrative requirements for state recipients and their subrecipients which are governmental authorities may differ from federal requirements: equipment management, procurement, and financial management systems. The basic intent of allowing state-specific requirements in these areas is to shift the emphasis from national uniformity to uniformity of procedures and requirements within a state, in order to provide greater flexibility to the states in standardizing the management of related state and federal programs. Part 18 permits states to pass down state procedures in these three areas to subrecipients that are governmental authorities. States are not allowed to pass down state procedures that are less restrictive than part 19 to subrecipients that are nonprofit organizations. However, as long as the state procedures are not inconsistent with part 19, the state may apply the same procedures for all its subrecipients. The state may use procedures that are more restrictive than part 19, but state procedures may not be more permissive than part 19. The basic intent of part 19 is to establish nationally uniform procedures and requirements for private nonprofit organizations that receive funds from multiple federal agencies.

The state must ensure that subrecipients that are units of state or local governments, including Indian tribal governments, follow the requirements of part 18, and that subrecipients that are private nonprofit organizations follow the requirements of part 19.

Unless an issue is specifically addressed in this circular or in other FTA guidance specific to the Section 5311 program, the most recent version of FTA Circular 5010 “Grant Management Guidelines,” which provides guidance for other FTA programs, should be used as guidance for project management issues not unique to Section 5311.

The state must enter into a written agreement with each subrecipient stating the terms and conditions of assistance by which the project will be undertaken and completed.

3. **EQUIPMENT MANAGEMENT.**
 - a. **General.** Under the common grant rule, states may use, manage, and dispose of equipment acquired under a Section 5311 grant and that has reached the end of its useful life according to state law and procedures. States are free to adopt the procedures

established in part 18 for other public entity recipients or use them as a guide in developing state procedures for equipment use, management, and disposition, but they are not required to do so. States may use the same procedures for private and nonprofit subrecipients as for public entity subrecipients, so long as those procedures are consistent with 49 CFR part 19.

In accordance with FTA C 5010.1D, FTA retains a federal interest in the fair market value of equipment that is withdrawn from public transportation use prior to the end of its useful life, whether by planned withdrawal, misuse, or casualty loss. Any disposition of project property before the end of its useful life requires prior FTA approval. Recipients are required to notify FTA immediately when equipment is withdrawn from public transportation use.

In addition, 49 U.S.C. 5334(h)(1) through (3) allows facilities and equipment and other assets (including land) that are no longer needed for the purposes for which they were acquired to be transferred to a local governmental authority to be used for a public purpose other than transportation with no further obligation to the federal government, when approved by FTA. FTA may authorize such a transfer only if FTA determines: the asset will remain in public use for at least five years after the date the asset is transferred; there is no public transportation purpose for which the asset should be used; the overall benefit of allowing the transfer is greater than the interest of the federal government in liquidation and return of the financial interest of the federal government in the asset, after considering fair market value and other factors; and there is no interest in acquiring the asset for federal use if the asset is a facility or land.

Common grant rule procedures and requirements for recipients that are not states, and their public entity and nonprofit subrecipients are more explicit and can be found in 49 CFR part 18.32 and 49 CFR part 19.34.

- b. Transfer of Property. Section 5311(h) permits a state to transfer facilities and equipment acquired with assistance under Section 5311 to any entity eligible to receive assistance under 49 U.S.C. Chapter 53 with the consent of the entity currently in possession of such facilities or equipment, if the facility or equipment will continue to be used in accordance with the requirements of Section 5311. This provision complements the state's flexibility under the common grant rule to manage equipment and extends the state's flexibility in the management of facilities, including real property.

The entity receiving equipment or facilities under this provision to provide Section 5311 service must comply with all the state and federal requirements for Section 5311 recipients, including acceptance of the special Section 5333(b) labor warranty for Section 5311 protection (see Chapter XI Section 3(a) of this circular). The names of the entities involved in the transfer of equipment or real property, along with a description of the equipment or real property transferred should be included in a new or revised program of projects. The transfer may be shown in the program of projects for any active grant. It does not have to be in the grant under which the equipment or property was originally funded.

- c. Vehicle Useful Life and Replacement Standards. The common grant rule gives states greater flexibility in managing and disposing of equipment. In keeping with the intent of the rule FTA holds states responsible for establishing and implementing their own rolling stock requirements for all categories of vehicles acquired under the Section 5311, 5310, 5316, 5317, 5339 programs. For these programs only, FTA permits state recipients to do the following:

- (1) establish their own minimum useful life standards for vehicles;
- (2) use their own procedures for determining fair market value, and FTA retains its interest if the fair market value of the project property is over \$5,000; and
- (3) develop their own policies and procedures for maintenance and replacement of vehicles. Maintenance requirements and insurance coverage must be adequate to protect the federal interest in the vehicle within the useful life determined by the state.

The state's process for maintenance and replacement of vehicles should be captured in the state management plan (SMP).

- d. Disposition. States and their subrecipients should follow state laws and procedures for disposing of equipment. States are required to use the net income from disposition of equipment to reduce the gross project cost of other capital projects (carried out under 49 U.S.C. Chapter 53) or return to FTA the proceeds from the disposition of equipment, unless permitted to do otherwise under FTA C 5010.1D (i.e., fair market value less than \$5,000, transfers). This applies to all equipment currently in use and purchased with Section 5311 funds. This blanket disposition instruction satisfies the provision of 49 CFR part 19 requiring private nonprofit organizations to seek disposition instructions from the federal awarding agency.

4. SATISFACTORY CONTINUING CONTROL AND RESPONSIBILITY. When capital equipment or facilities are acquired, built, or improved for use by any entity in rural area public transportation or intercity transportation, provisions must be made to ensure satisfactory continuing control of that capital equipment and facilities. While the state agency serving as the FTA recipient may delegate these responsibilities to another entity, the state is ultimately responsible for compliance with this requirement.

When vehicles or other equipment acquired with Section 5311 funds are operated by an entity other than the subrecipient, control and responsibility for the operation of the vehicles or other equipment must remain with the subrecipient unless transfer of the control and responsibility is made to another subrecipient authorized by the designated state agency to accept control and responsibility for those vehicles or equipment.

5. PROCUREMENT.

- a. General. When procuring property, supplies, equipment, or services under an FTA grant, the state will follow the same policies and procedures it uses for procurements from its nonfederal funds, to the extent permitted by federal statutes and regulations. While the Federal threshold for small purchases is currently \$100,000, the State may set a lower

threshold for itself and its subrecipients. All governmental subrecipients follow state procurement procedures. However, because of differences between 49 CFR part 18 and 49 CFR part 19, FTA third party contracting requirements are fewer for states and subrecipients that are local or tribal governments than for subrecipients that are private nonprofit organizations. For consistency, the state may choose to use the more detailed FTA requirements included in the current version of FTA Circular 4220 for all subrecipients as part of its state procurement procedures.

In some cases, a state may choose to grant Section 5311 assistance to a subrecipient through an intermediary subrecipient. For example, for public policy reasons, the state might pass funds to a nonprofit organization through a local governmental authority. The arrangement between the first tier and second tier subrecipient is not a third party contract if the ultimate subrecipient would otherwise be eligible under Section 5311 to receive funds directly from the state and the ultimate subrecipient intends to use those funds to pursue its own rural area transit project.

Each recipient of FTA seeking federal assistance to acquire property or services in support of its proposed project shall certify to FTA, in accordance with 49 CFR 18.36, that its procurements and procurement system will comply with all applicable third party procurement provisions of federal laws, regulations, and directives, except to the extent FTA has expressly approved otherwise in writing. Any applicant that fails to provide this certification may be determined ineligible for award of federal assistance if FTA determines the applicant's procurement practices and procurement system are incapable of compliance with federal laws, regulations, and directives governing procurements financed with FTA assistance.

Procurement procedures used by states and their subrecipients must comply with the following specific federal procurement requirements:

- (1) States. State procurement practices must, at a minimum, comply with the following:
 - (a) A recipient procuring rolling stock with FTA assistance may make a multiyear contract to buy the rolling stock and replacement parts under which the recipient has an option to buy additional rolling stock or replacement parts for not more than five years after the original contract date for bus procurements, and for not more than seven years after the date of the original contract for rail procurements, provided that such option does not allow for significant changes or alterations to the rolling stock;
 - (b) a requirement for full and open competition;
 - (c) a prohibition against geographic preferences;
 - (d) follow Brooks Act procedures for procurement of architectural and engineering services if the state has not adopted a statute governing procurement of such services;
 - (e) comply with the Davis-Bacon Act on all construction contracts over \$2,000; and

- (f) inclusion in contracts of all federal clauses required by federal statutes and executive orders and their implementing regulations. These clauses are identified in specific federal regulations cited in FTA's master agreement and incorporated by reference into the grant agreement. Additional technical assistance for third party contracting is available in FTA's "Best Practices Procurement Manual," which can be found online at http://www.fta.dot.gov/funding/thirdpartyprocurement/grants_financing_6037.html.
- (2) Subrecipients that are Governmental Authorities. Subrecipients that are governmental authorities such as local or Indian tribal governments must comply with the same federal requirements governing state procurements. States are responsible for ensuring that subrecipients are aware of and comply with federal requirements.
- (3) Subrecipients that are Private Nonprofit Organizations. Subrecipients that are private nonprofit organizations must comply with FTA procurement requirements contained in the most current FTA Circular 4220. States are responsible for ensuring that private nonprofit subrecipients are aware of and comply with these additional requirements.
- (4) Subrecipients that are Private, For-profit Organizations. Subrecipients that are private for-profit organizations must comply with FTA procurement requirements contained in the most current FTA Circular 4220 for procurements conducted with federal funds. States are responsible for ensuring that private for-profit subrecipients are aware of and comply with these additional requirements.
- b. Preaward and Post-Delivery Reviews. FTA requires grant recipients purchasing a certain number of revenue passenger rolling stock to undertake reviews of the rolling stock both before the award of the contract and following delivery of the vehicles. The intention is to improve compliance with Buy America requirements, the recipient's bid specifications, and federal Motor Vehicle Safety Standards. The requirement to undertake the preaward and post-delivery reviews arises from 49 U.S.C. 5323(m) and is specified in FTA regulations at 49 CFR part 663. Compliance must be certified on the annual list of certifications and assurances.

Procurements of twenty vehicles or fewer, purchased for serving rural areas and cities of less than two hundred thousand population are not subject to either review procedure. In urbanized areas of greater than two hundred thousand population the reviews are not necessary for a purchase of ten or fewer vehicles. The procurement of unmodified vans, in any quantity, is not subject to the review requirement.

When a state undertakes a consolidated state procurement on behalf of several subrecipients of FTA funds, the requirement for a resident inspector at the manufacturing site depends on the number of buses in a subrecipient's order. That is, for example, although a state may order thirty vehicles, if no subrecipient expects to receive twenty or more of the vehicles (ten or more for a large urbanized area subrecipient), the state is not required to place an inspector on site. If twenty or more vehicles are ordered for a single subrecipient an on-site inspector is required, and may be provided by either the state or

the subrecipient. In addition, if the on-site inspector is used on one subrecipient's order, then this meets the on-site inspection requirement for the state procurement even though there are other subrecipient orders of twenty or more vehicles.

In carrying out the reviews, it may be useful to obtain a copy of the manual, "Pre-Award and Post-Delivery Reviews for Bus Vehicles," from FTA's regional offices. Also, when purchasing buses tested by the Altoona Bus Research and Testing Center, the recipient must obtain a copy of the test report.

Information about conducting preaward and post-deliver audits for bus procurements can be found at http://www.fta.dot.gov/legislation_law/12921_5423.html.

- c. New Model Bus Testing. Recipients must ensure that buses and vans acquired with FTA funds are tested in accordance with the requirements in 49 CFR part 665 and must obtain a copy of the resulting test report before FTA funds can be released. FTA provides a bus testing section on its website that provides an overview of the program and assists with understanding applicable procedures and policies: <http://www.fta.dot.gov/bustesting>.

MAP-21 amended the bus testing provisions under 49 U.S.C. 5318 to require that FTA establish a pass/fail testing standard. FTA funds will be available to acquire a new bus model only if it has received a passing score. This requirement will take effect after FTA has issued regulations establishing the standard.

- d. Domestic Preference for U.S. Property—Buy America. Pursuant to 49 U.S.C. 5307(d)(1)(E), applicants and subrecipients must certify that they will comply with applicable Buy America laws as set forth under 49 U.S.C. 5323(j) in carrying out a procurement. FTA's Buy America requirements apply to all third party procurements funded by FTA. These requirements, published at 49 CFR part 661, are different from the Federal "Buy American" regulations, published in the Federal Acquisition Regulation at 48 CFR 25.1 and 25.2, which apply to direct federal procurements. FTA strongly recommends that the recipient review FTA's Buy America regulations before undertaking any procurement to ensure compliance with the requirements applicable at the time the recipient will undertake the procurement. Additional information is available on the FTA Buy America website: http://www.fta.dot.gov/legislation_law/12921_613.html.

- (1) General Requirement. In compliance with 49 U.S.C. 5323(j) and FTA's implementing regulation at 49 CFR part 661, no funds may be obligated by FTA for a grantee project unless all iron, steel, and manufactured products used in the project are produced in the United States. FTA may waive this requirement in certain circumstances, as discussed below.

- (2) Steel and Iron. All steel and iron manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives. The steel and iron requirements apply to all construction materials made primarily of steel or iron and used in maintenance facilities, rail lines, and bridges. These items include, but are not limited to, structural steel or iron, steel or iron beams and

- columns, running rail, and contact rail. These requirements do not apply to steel or iron used as components or subcomponents of other manufactured products or rolling stock.
- (3) Manufactured Products. For manufactured products used in an FTA-funded project, all of the manufacturing processes for the product must take place in the United States, and all components of the product must be of U.S. origin. 49 CFR 661.5(d).
- (4) Waivers. FTA may issue a waiver from Buy America requirements on one of four grounds:
- (a) if the FTA administrator determines a waiver is in the public interest;
 - (b) if no responsive or responsible bid offers a product manufactured in the United States;
 - (c) when U.S. manufacturers do not produce products in a sufficient and reasonably available amount or of a satisfactory quality; or
 - (d) when including domestic material will increase the cost of the overall project by more than 25 percent(49 CFR 661.7).
- (5) Special Waiver for Small Purchases. FTA has issued a general public interest waiver that exempts “small purchases” from Buy America requirements. Currently, DOT’s Common Grant Rule (49 CFR 18.36(d)) sets that threshold at \$100,000 or less. FTA bases the exemption on the total amount of the contract and not on the individual price of items being purchased. For example, if a recipient purchases ten items costing \$20,000 each under a single purchase order, the \$200,000 contract would make the procurement subject to Buy America requirements
- (6) Regional Offices Available to Assist. FTA recognizes that Buy America regulations may not address each issue that may arise in the course of a specific acquisition. It is not unusual for an acquisition to involve specific circumstances requiring interpretations of the regulations. For these reasons, recipients should submit Buy America questions or issues not addressed by the regulation to the appropriate FTA regional office.
- (7) Responsibilities. Under 49 CFR 661.13, a recipient’s responsibilities are:
- (a) to adhere to the Buy America clause in its grant agreement with FTA;
 - (b) to include in its bid specification for procurement within the scope of FTA’s regulations an appropriate notice of the Buy America provision. Such specifications must require, as a condition of responsiveness, that the bidder or offeror submit with the bid a completed Buy America certificate in accordance with 49 CFR 661.6 or 661.12, as appropriate; and

- (c) to ensure bidders comply with its original certifications. A bidder or offeror certifying that it will comply with the applicable Buy America requirements may not change its original certification or apply for a waiver of Buy America requirements once the recipient has unsealed a bid. However, 49 CFR 661.13(b) allows a bidder or an offeror to correct an inadvertent error in a certification of noncompliance after a bid has been unsealed, with the burden of establishing the inadvertent error falling upon the bidder.
- e. Transit Vehicle Manufacturer Disadvantaged Business Enterprises (DBE) Program Requirement. Recipients must ensure that each transit vehicle manufacturer (TVM), as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, certifies that it has complied with the requirements of 49 CFR part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." The recipient is obligated to determine, by checking the TVM listing on FTA's website or by checking with FTA's Office of Civil Rights at the time of bid opening, that the manufacturer likely to receive the contract is in compliance with part 26. For further guidance, contact the FTA Office of Regional Civil Rights.

TVMs must establish and submit to the FTA Office of Civil Rights for approval an annual overall percentage goal. In setting this overall goal, manufacturers should be guided, to the extent applicable, by the principles underlying 49 CFR 26.45. TVMs that are certified to bid on federally funded transit agency contracts are listed on FTA's website. For further guidance, contact the FTA Office of Civil Rights.

- f. Debarment and Suspension. The purpose of the DOT governmentwide Debarment and Suspension (Nonprocurement) regulations (2 CFR part 1200) is to ensure that federal assistance funds are not provided to anyone who has been debarred, suspended, determined ineligible, or voluntarily excluded from participation in federally assisted transactions. The U.S. General Services Administration's (GSA) System for Award Management (SAM) provides a single comprehensive list of individuals and firms excluded by federal government agencies from receiving federal contracts or federally approved subcontracts and from certain types of federal financial and nonfinancial assistance and benefits. GSA maintains a Website, at <https://www.sam.gov>, which is updated in real time as changes to the data occur.
- (1) DOT regulations, "Government-wide Debarment and Suspension (Nonprocurement)," 2 CFR part 1200, incorporating OMB's debarment and suspension guidelines, 2 CFR part 180, requires disclosure of the status of persons and entities participating in:
- (a) Third party contracts or subagreements of \$25,000 or more at any tier;
 - (b) Third party contracts of any amount for federally required audit services (such as those required under the Single Audit Act Amendments); and
 - (c) Third party contracts or subagreements requiring official DOT approval.

- (2) Both participants in third party contracts of any tier and subagreements of any tier are expected to assure the status of persons participating therein.
- (3) The awarding party must verify that the person is not excluded or disqualified by:
 - (a) Checking the SAM list of excluded parties maintained by the GSA and available at <https://www.sam.gov>. (**Note:** Strongly recommended by FTA.);
 - (b) Collecting a certification from the prospective awardee; or
 - (c) Adding a clause or condition to the third party contract or subagreement with that awardee.

In addition, the recipient and awardees participating in lower tier transactions must extend these requirements to their awardees. The prospective awardee in turn must notify the recipient or third party contractor (person at the next higher tier) if it knows whether or not it or any of its principals are presently excluded or disqualified under the regulations.

6. FINANCIAL MANAGEMENT

- a. State Financial Management Systems. The common grant rule requires a state to expend and account for grant funds in accordance with state laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the state, as well as its subrecipients and cost-type contractors must be sufficient to:
 - (1) Permit preparation of reports described in this circular and reports necessary to comply with other program and statutory requirements; and
 - (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions applicable to the program.

Private nonprofit subrecipients must comply with the standards for financial management systems provided in 49 CFR part 19. If states purchase vehicles and equipment for subrecipients and subrecipients receive no cash from the recipient, this requirement does not apply to the subrecipients.

7. FTA ELECTRONIC AWARD MANAGEMENT SYSTEM. FTA provides a streamlined electronic interface between recipients and FTA that allows complete electronic award application submission, review, approval, and management of all grants. Among other things, recipients apply for grants, inquire about the status of grants, file the required federal financial report and milestone progress reports, and submit annual certifications and assurances in this system. A user guide can be found at FTA's website in the "Grants and Financing" section under "Apply for and Manage Grants."

The U.S. Department of Labor (DOL) receives requests electronically for transit employee protective certification for projects through the FTA electronic award management system.

DOL will electronically issue the public transportation employee protective certifications, entering the certification date and attaching the certification letter into the FTA electronic award management system.

This system interfaces directly with other systems such as Grants.Gov and the Electronic Clearing House Operations (ECHO), which is described in Section 11, below, and Appendix A of this circular. ECHO is an FTA Web-based application that processes FTA recipients' requests for payment. To access the FTA electronic award management system, a new applicant must complete the grantee/recipient user access request form for each user and submit that form to the appropriate FTA regional office. The website containing information about how to apply for a grant is:

http://www.fta.dot.gov/funding/grants_financing_36.html.

8. **SYSTEM FOR AWARD MANAGEMENT (SAM) REQUIREMENTS.** The system for award management (SAM) is a free website that consolidates federal procurement systems and the Catalog of Federal Domestic Assistance. On July 30, 2012, the central contractor registration (CCR), FedReg, and the excluded parties list system (EPLS) were migrated into SAM. Any organization applying for financial assistance from the federal government must register in SAM and keep its registration current until it submits its final financial report pursuant to the award agreement from FTA. The recipient must review and update its information in SAM at least annually after the initial registration, and more frequently if required by changes in its information or another provision of a federal or federally assisted agreement, law, regulation, or regulatory guidance. The website is **<https://www.sam.gov>**.
9. **DATA UNIVERSAL NUMBERING SYSTEM (DUNS) REGISTRATION REQUIREMENT.** Any organization applying for a grant or cooperative agreement from the federal government must have a DUNS number. This is a nine-digit identification number that provides a unique identification for single business entities. Applicants that currently do not have a DUNS number can obtain one for free from Dun and Bradstreet (**www.dnb.com**). It takes about five weeks to receive a DUNS number after the information requested is inputted in the "Instructions on How to Obtain a DUNS Number." As soon as the DUNS number is received, the applicant must update the recipient electronic profile to include the number.
10. **SUBRECIPIENT DUNS REQUIREMENT.** If it is authorized to make subawards under its agreement with FTA, the recipient must notify potential subrecipients that no entity may receive a subaward from the recipient unless the entity has provided its DUNS number to the recipient.
11. **ELECTRONIC CLEARING HOUSE OPERATING (ECHO) REQUIREMENTS.** FTA makes all payments by electronic funds transfer, regardless of the dollar amount involved. Payments are made under the electronic clearing house operation Web (ECHO-Web) system, by means of a control number assigned to the state. The state agrees to comply with the ECHO-Web requirements contained in the Treasury Regulations, 31 CFR part 205, "Rules and Procedures for Funds Transfers," and as established by the "Guidelines for Disbursements" set forth in FTA's ECHO-Web system operations manual. Detailed information about ECHO-Web can be found in Appendix A. In general:

- a. The state may initiate cash drawdowns only when actually needed for immediate disbursements for project purposes. The state must disburse the funds drawn down according to their treasury-state agreement or Subpart B of 31 CFR part 205, “Rules and Procedures for Efficient Federal-State Transfers.” The state’s access to the ECHO-Web system may be revoked or suspended, or other remedies may be invoked, if the state fails to expend federal funds within a reasonable period, to return funds to FTA within a reasonable period, or is unwilling or unable to establish procedures that will minimize the time elapsing between cash advances and the disbursement.
 - b. Costs incurred and available balances are reported annually on an accrual basis, on the Federal Financial Report in FTA’s electronic award management system.
 - c. The state agrees to provide for control and accountability for all project funds consistent with federal requirements and procedures for use of the ECHO-Web system.
 - d. The state may not draw down funds for a project in an amount that would exceed the sum obligated by FTA or the current available balance for that project.
 - e. The state shall limit drawdowns to eligible project costs and ensure that subrecipients also follow applicable financial requirements.
12. **STATE FINANCIAL RECORDS.** FTA does not maintain detailed financial records on individual projects within a program of projects. Financial records, supporting documentation, and all other records pertinent to a grant must be retained by the designated state agency (and its subrecipients) and must be made readily available to authorized representatives of the U.S. DOT and the comptroller general of the United States for a period of three years from the date the state electronically submits the final federal financial report (SF 425). If any litigation, claim, or audit is started before the expiration of the three-year period, the records must be retained beyond three years, until all litigation, claims, or audit findings involving the records have been resolved.

The state’s financial records should adequately document the computation of the federal share and the provision of the required local share for each kind of project. The eligibility of any Americans with Disabilities Act of 1990 (ADA), Clean Air Act (CAA), or bicycle projects for which the increased federal share is claimed should be adequately documented.

13. **FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REQUIREMENT.** FTA’s recipients must report the information about each first tier subaward over \$25,000 (funds passed through to other public agencies or private nonprofit organizations) by the end of the month following the month the recipient makes any subaward or obligation (not the month after FTA awarded the direct grant). For example, if FTA awarded the grant in November, and the prime recipient did not sign subrecipient agreements until February, the FTA recipient would have until March 31 to report the subaward into the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS) at <https://www.fsrs.gov>. Once the recipient submits an initial report, the recipient can revise it later to add additional subawards as they are made, or to change data previously submitted to reflect adjustments in subawards.

- a. No report is required until the month after the recipient makes a subaward. For example, if a state DOT received a Section 5311 grant in November and listed sixteen subrecipients in the program of projects but does not consider the subawards to be made until each subrecipient signs a letter of agreement, the state would not have to report any subawards in December, but would report them by the end of the month after the subrecipient signs the agreement. On the other hand, if the state DOT has a standing agreement with subrecipients and considers the subawards to be made at the time of the FTA grant award, the report would be due in FSRS by the end of the month after FTA obligated the grant to the DOT. If the state allowed subrecipients to use preaward authority, the deadline would be based on the date of the FTA obligation, since FSRS cannot accept subaward reports before the federal obligation is recorded in the system.
- b. FTA grant recipients that use funds to purchase vehicles from a statewide contract and then provide the vehicles to subrecipients have a subaward relationship with these subrecipients and should submit a subaward report for each subrecipient that is receiving vehicles from the statewide purchase. Grant recipients should enter the cost of the vehicles being transferred to the subrecipient as a proxy for the subaward amount in their subaward report. Recipients that are awarded grants directly from FTA and use these funds to purchase vehicles from a statewide contract for their own use do not have a subaward relationship with another organization and do not need to submit FFATA subaward reports.
- c. The required data elements in FSRS for each first tier subaward over \$25,000:
 - (1) Name of entity receiving subaward Doing Business As (DBA) Name;
 - (2) DUNS of the entity and its parent and DUNS+4;
 - (3) Amount of SubAward;
 - (4) Subaward Number (Note: assigned by recipient);
 - (5) CFDA Number (Note: The same CFDA associated with the FTA award);
 - (6) Place of performance (including congressional district);
 - (7) Total compensation and names of top five executives, if required (Note: Not typically required, with thresholds of \$25 M and 80% of total revenue coming from federal funds);
 - (8) Award title descriptive of the purpose of the funding action; and
 - (9) Location of the entity (including congressional district).
- d. The amount the recipient must report for each subrecipient is the amount of the total subaward, not payments to date. Payment/drawdown information is not included in the data fields requested.

- e. After the recipient reports the subaward data in FSRS, the information will be published with the original direct award information on <http://www.usaspending.gov>.

Information and training materials about FFATA sub-award reporting and FSRS are posted on www.USASpending.Gov/news. To receive new information on changes and updates to USASpending.gov as soon as it becomes available, subscribe by visiting <http://www.usaspending.gov/> and adding your email address under the “What’s New” Section. User manuals and data dictionaries are available on <http://www.fsrs.gov>. Recipients should direct technical questions about the reporting website to the FSRS help desk and FTA regional staff will assist with grant award information and requirements.

14. ALLOWABLE COSTS. Office of Management and Budget (OMB) Circular A-87 (2 CFR part 225) provides the federal guidelines for allowable costs for recipients that are governmental authorities. OMB Circular A-122 (2 CFR part 230) provides comparable guidance for nonprofit organizations. Expenses such as indirect costs or payments to a self-insurance fund must be documented appropriately.
15. CLOSEOUT. States should initiate project closeout with subrecipients within ninety days after all funds are expended and all work activities for the project are completed. The states should similarly initiate program of project closeout with FTA within ninety days after all work activities for the program of projects are completed. A final federal financial report (SF 424), final budget, and final program of projects must be submitted electronically via the FTA electronic award management system at the time of closeout.

FTA expects grants awarded for a specific program of projects to be completed within a reasonable, specified time frame, generally two to three years. If small amounts of funds remain in an inactive grant, the state should request that the funds be deobligated and the project closed out. If the deobligated funds are still within their period of availability, FTA can reobligate the funds in a new grant to the state along with other currently available funds. Otherwise, the deobligated funds lapse and are reapportioned by FTA among all the states in a subsequent year.

16. AUDIT. State agencies are responsible for ensuring that audits are performed consistent with the requirements of OMB Circular A-133, “Audits of State, Local Governments, and Non-Profit Organizations,” resolving audit findings, and bringing problems to FTA’s attention. OMB has issued an audit compliance supplement for Section 5311 grants. FTA has not required an annual financial audit of a subrecipient when assistance is provided solely in the form of capital equipment procured directly by the state. Even if the amount of FTA funds the state passes to a particular subrecipient does not trigger the requirement for an A-133 audit, the state may wish to review A-133 audit reports prepared for subrecipients that are required to be audited because the total federal funds from all sources exceed the threshold (currently \$500,000). At a minimum, states should require subrecipients to bring to the attention of the state any audit findings relevant to their use of FTA funds.
17. REAL PROPERTY. Real property acquisition standards are included in the most current FTA Circular 5010, “Grant Management Guidelines” and in Chapter X of this circular,

“Other Provisions.” Subrecipients may use the state’s staff appraisers to prepare required independent appraisals.

18. CONSTRUCTION MANAGEMENT AND OVERSIGHT. The responsibility for construction management and oversight lies with the state. FTA does not approve design plans for construction projects by subrecipients.

19. REPORTING REQUIREMENTS

- a. Annual Program of Projects Status Reports. By October 31 each year, the state shall submit to FTA a program status report for each active grant, covering the twelve-month period ending September 30. Status reports are intended to meet minimal program information needs at the regional and national levels. Reports should include an updated program of projects for each approved grant that contains active projects. The updated program of projects should reflect revised project descriptions, changes in projects from one category to another, and adjustments within budget categories. The updated program of projects can be attached in the electronic status report. If revisions to the program of projects result in changes to the line item budget for the grant, these changes should be submitted as budget revisions. Significant civil rights compliance issues occurring during the year (such as Title VI, Equal Employment Opportunity [EEO], or Disadvantaged Business Enterprise [DBE] complaints against the state or subrecipients) should be addressed in the annual status report. In addition, the state may report notable accomplishments or problems involving Section 5311 subrecipients.
- b. Milestone Progress Reports (MPR). For activity line items (ALIs) for which milestones were required at the time of grant application (e.g., for vehicle procurements, construction projects, and program reserve), the recipient should enter revised milestone dates as part of the annual report. If the estimated completion date for the grant has changed, the revised date should be entered, with an explanation as to why the date was changed.
- c. Federal Financial Report (FFR). The state must submit electronically an annual federal financial report for each active grant, for the period ended September 30. For the purpose of this report, funds are considered encumbered when agreements are signed with subrecipients. States should prepare the reports using the accrual method of accounting.
- d. Disadvantaged Business Enterprise (DBE) Reports. If the state receives planning, capital, and/or operating assistance and awards prime contracts exceeding \$250,000 in FTA funds in a federal fiscal year, DOT regulations require the state to have a DBE program and establish a DBE goal methodology that applies to all direct and subrecipient contracting activity resulting from those funds. Subrecipients must follow the state’s established DBE program. FTA recipients that meet the above thresholds must submit a DBE goal to FTA for review by August 1 at three-year intervals, based on a schedule established by FTA.
- e. NTD Reports. The National Transit Database (NTD) is FTA’s primary national database for statistics on the transit industry. Recipients and subrecipients of Section 5311 grants

are required by 49 U.S.C. Section 5335(a) and (b) to submit data to the NTD as a condition of the award. Specific reporting requirements are included in the NTD reporting instructions manual issued each year. Visit the NTD website at www.ntdprogram.gov for the most recent rural reporting manual. Section 5311(b)(4) specifies that each Section 5311 recipient shall submit an annual report containing information on capital investment, operations, and service provided under Section 5311. Items to be reported include total annual revenue; sources of revenue; total annual operating costs; total annual capital costs; fleet size and type, and related facilities; revenue vehicle miles; and ridership. The state agency administering FTA's Formula Grants for Rural Areas (Section 5311) is responsible for ensuring that data is collected and compiled for the data collection and compilation from each Section 5311 subrecipient and transportation provider in the state that benefits from the grant.

20. STATE MANAGEMENT PLAN. The state management plan (SMP) is a document that describes the state's policies and procedures in administering the Section 5311 program. All states are required to have an approved SMP on file in FTA's regional office. Additions or amendments to the SMP must be made and submitted to FTA whenever a state significantly changes its management of the program, or when new program management requirements are imposed by FTA. Changes may be required as the result of a state management review by FTA. FTA has provided detailed requirements in Chapter VI of this circular, State Management Plan.
21. FTA STATE MANAGEMENT REVIEW. FTA's administration of Section 5311 results in relatively little federal involvement in the day-to-day program activities or in the review of individual applications from subrecipients. To ensure that the program objectives are being carried out, the FTA regional office, with contractor assistance, conducts state management reviews every three years or as circumstances warrant. The review includes an inspection of documentation on file at the FTA regional office, a visit to the state offices to examine the procedures the state uses in administering the program, and local subrecipient site visits. Local site visits to the state's subrecipients are selected at random and are meant to evaluate the state's effectiveness in meeting federal requirements and its own SMP (discussed in Chapter VI). The review assesses the accuracy and adequacy of the SMP, and may result in recommendations for changes to the SMP. A draft report with preliminary findings is presented at an exit conference. The state has an opportunity to comment on the report and to take corrective actions before a final report is issued. The regional office follows up on corrective actions required in the final report.

FTA periodically conducts state management review seminars to help states understand the federal requirements being reviewed and to provide technical assistance. Contact the FTA regional office for a current schedule of seminars.

FTA also conducts more specific compliance reviews of recipients and subrecipients in particular areas, for example financial management, procurement, drug and alcohol testing compliance, and the various aspects of civil rights compliance, usually in response to a risk assessment, complaint, or other indication of a possible problem. FTA coordinates reviews of subrecipients with the state.

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VI. STATE MANAGEMENT PLAN

1. GENERAL. The state management plan (SMP) is a document that describes the state's policies and procedures for administering the state-managed portions of FTA's Section 5311, 5310, 5316, 5317, and 5339 programs. Each state is required to have an approved SMP on file with the appropriate FTA regional office and to update it regularly to incorporate any changes in program management or new requirements. The state shall provide an opportunity for review by stakeholders when it develops a new plan or significantly revises an existing plan. The state may include the required SMP for Section 5311, 5310, 5316, 5317, and 5339 programs in a single document or separate documents. States that have expended all of their Section 5316 (Job Access Reverse Commute) and Section 5317 (New Freedom) funds from SAFETEA-LU may remove those programs from their SMPs. Certain contents of the SMP, such as the project selection criteria, should be coordinated with the statewide transportation plan. All public documents developed under a grant from FTA must be prepared and submitted in electronic format.
2. PURPOSE. The SMP is intended to facilitate both state management and FTA oversight by documenting the state's procedures and policies for administering the Section 5311 program in a single reference. The SMP should be a document that is useful to the state and subrecipients, as well as to FTA. At a minimum, this document must include the state's objectives, policies, procedures, and administrative requirements, in a format readily accessible to potential subrecipients, state staff, FTA, and the public. The SMP's primary purposes are to serve as the basis for FTA state level management reviews of the program, and to provide public information on the state's administration of the Section 5311 program. It may also be used internally by the state as a program guide for local project applicants. If the state has other relevant documentation that provides the same information requested for the SMP, such as an annual application instructions manual, it may be included by reference, as an attachment.
3. STATE MANAGEMENT REVIEWS. FTA conducts state management reviews to examine each state's management procedures, and the relationship of the procedures to the SMP. When a state management review is scheduled, FTA and its contractors examine the SMP on file as part of a desk review at the regional office to determine whether the procedures in the SMP satisfy current requirements. At the site visit, the reviewers document whether or not the state is following its own stated procedures. Review findings relating to the SMP might include recommendations that the state revises the SMP to reflect its actual procedures, or that it change its procedures and document them in revisions to the SMP.
4. STATE MANAGEMENT PLAN CONTENT While FTA does not prescribe a format for the SMP, the plan should address the following topics and provide the information as requested for each topic below.
 - a. Program Goals and Objectives. Describe the philosophy and policy underlying the state's management of the Section 5311 program. Include a description of any process that exists for tracking the program goals for 49 U.S.C. 5311 in Chapter II Section 2 of this Circular and establishing long-term goals for providing rural public transportation in rural areas of

the state, including the state's process for long-range planning and consultation with rural elected officials.

- b. Roles and Responsibilities. Specify the agency designated by the governor to administer the Section 5311 program. Explain the respective roles and responsibilities of the state agency and its subdivisions, other state agencies or review boards, local governments, private providers, local applicants, and other involved parties. Include a brief discussion of the statewide long-range transportation planning process.
- c. Coordination. Describe how the state coordinates with other agencies at the state level, and encourages and enhances coordination at the project level. This could include a description of any state level coordinating mechanisms, legislation, review boards, and state policies that encourage or mandate coordination at the local level.
- d. Eligible Subrecipients. Describe which entities may apply to the state for funds as subrecipients and what kinds of projects the state may conduct itself as primary recipient. Identify any way in which state eligibility is more restrictive than federal eligibility. Describe methods for participation by other entities, including private for-profit providers such as taxicab companies or intercity bus operators.
- e. Eligible Services and Services Areas. Describe eligible services and service areas, including any limitation the state imposes in addition to federal rules. The definition of transit service area is a state and local decision. Include here any state policies and procedures related to the provision of service to destinations outside the state.
- f. Eligible Assistance Categories. Describe eligible assistance categories, particularly when more explicit or more restrictive than federal categories. Include any restrictions on eligible expenses and the state's policy on allocation of costs between administrative, operating, planning, and capital expenses.
- g. Local Share and Local Funding Requirements. Describe the state's policies on provision of local share. Include any state programs which provide matching funds for Section 5311.
- h. Project Selection Criteria and Method of Distributing Funds. Describe the state's criteria for selecting projects and distributing funds fairly and equitably among various applicants for funding, including tribal governments and other entities serving Native American populations. Whether the state uses a formula for allocation, imposes its own limitations on use of the funds (e.g., capital only), or uses an entirely discretionary selection process, the plan should explain the policy rationale and the methods used. This description should cover the state's procedures for assuring equity of distribution of benefits among groups within the state, as required by Title VI of the Civil Rights Act of 1964. Describe the state's procedures for coordinating with the metropolitan planning organization (MPO) responsible for project selection in any designated transportation management area within the state.
- i. Intercity Bus Transportation. Describe the state's procedures for implementing Section 5311(f), which requires the state to expend no less than 15 percent of its annual Section

5311 apportionment for the support of intercity bus transportation, unless the governor certifies that the state's intercity bus service needs are adequately met. Describe the state's process for consultation with private intercity bus operators, and any other public participation process in connection with a certification that needs are adequately met. Describe the state's process for assessing intercity bus mobility needs in the state. Also, if the in-kind provision is used for local match, the state must document the process used to validate the source of the in-kind match, and the unsubsidized segment of the intercity bus service.

- j. Annual Program of Projects Development and Approval Process. Describe the state's process and timetable for soliciting, reviewing, and approving applications for local projects to be included in the state's annual program of projects for Section 5311. The SMP may include instructions to potential subrecipients on how to prepare local project applications.
- k. Funds Transfers. Describe any policy the state has for transferring Section 5307 and/or 5311 apportionments between small urbanized and rural areas, or for transferring Section 5310 projects (fiscal year 2012 and prior) to Section 5311 subrecipients for administration. Effective with fiscal year 2013 funds, Section 5310 funds may not be transferred to Section 5311.
- l. State Administration and Technical Assistance. Describe the planning resources and technical and management assistance the state makes available to local areas. Also describe how the state uses Section 5311 funds within the 10 percent limitation for administration, planning, technical assistance, and research. Distinguish between the use of funds for state administration and the state Rural Transportation Assistance Program (RTAP) allocation, and describe any additional resources used for these purposes.
- m. State RTAP. Describe the state's procedures for administering its state RTAP funds, including project selection criteria, any local match requirements imposed by the state, goals and objectives, and methods for involving operators in program development and implementation.
- n. Private Sector Participation. Describe the state's procedures for providing for maximum feasible participation by private providers of public transportation.
- o. Civil Rights. Describe how the state meets federal civil rights requirements and monitors subrecipients to ensure compliance with the requirements of Title VI, Equal Employment Opportunity (EEO), and Disadvantaged Business Enterprise (DBE). The SMP must include the program-specific Title VI requirements detailed in Chapter XI, "Other Provisions," including the state's efforts to assist minority applicants and to include subrecipients serving significant minority populations.
- p. Maintenance. Describe any maintenance plans and procedures required of subrecipients for vehicles and facilities, including maintenance of ADA accessibility features.
- q. Charter Rule. Describe the state's procedures for complying with the charter regulation (49 CFR part 604). Include the process used to ensure subrecipients are in compliance

with the charter regulation, and any agreements the state has with registered charter providers.

- r. Section 504 and ADA Reporting. Describe the state's method for monitoring subrecipients' compliance with Section 504 and ADA regulations and for processing the plans, reports, and certifications submitted to it under the provisions of those regulations.
 - s. NTD Reporting. Describe the state's method for collecting and reporting the data elements specified in the annual NTD reporting mandate, as required by 49 U.S.C. 5335(b).
 - t. State Program Management. Describe how the state administers its program management responsibilities in such areas as procurement, financial management, property management, vehicle use, maintenance and disposition, accounting systems, audit, and closeout. In addition, include any state procedures for management or financial reviews and project monitoring or on-site reviews. Describe any standards set by the state for matters such as productivity, cost-effectiveness, or service standards. Detail any state reporting requirements.
 - u. Other Provisions. Describe the process by which the state complies with other federal requirements such as the employee protection provisions of Section 5333(b); NEPA and other federal environmental laws, regulations, and executive orders; Buy America provisions; preaward and post-delivery reviews; prohibition of exclusive school transportation; and drug and alcohol testing, including the state's procedures for monitoring compliance by subrecipients.
5. STATE MANAGEMENT PLAN REVISIONS. All states must have an SMP approved by FTA on file with FTA's regional office. An approved SMP remains valid until FTA approves a later plan submitted by the state, or an FTA state management review results in a specific request to the state by FTA for a revised SMP, or FTA announces significant new program changes. FTA strongly encourages the state to issue timely revisions to the SMP, particularly when information helpful to minority applicants, subrecipients, and third party contractors is involved. When the state proposes significant revisions to the SMP it should give an opportunity to comment at the minimum to potential subrecipients of assistance, potential service providers, other state agencies and representatives of other funding sources, and any relevant state associations and professional organizations.

If revisions are substantive but not pervasive, the state may submit changes and additions in the form of page changes that FTA can approve and incorporate into the SMP on file. If the state changes the SMP significantly, however, it should submit the entire revised plan to FTA for approval. The state is responsible for ensuring that FTA has a complete electronic copy of the current SMP. The state may submit minor changes and technical corrections to FTA to update the approved plan, without the need for additional FTA approval. The state should reexamine the SMP to make sure it reflects current requirements of this FTA Circular 9040.1G and revise the SMP as necessary.

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VII. APPALACHIAN DEVELOPMENT PUBLIC TRANSPORTATION

ASSISTANCE PROGRAM (ADTAP)

1. **PROGRAM SUMMARY.** Title 49 U.S.C. 5311(c)(2) authorizes the Appalachian Development Public Transportation Assistance Program (ADTAP), which allocates funds by statutory formula (see Formula Allocations section below). This new program is funded with a takedown from the Section 5311 program to provide additional funding to states in the Appalachian region of the United States. FTA apportions the funds to designated states (see Eligible Recipients below) for purposes eligible under Section 5311; including capital, operating, planning, job access and reverse commute projects, and administrative costs.

FTA intends to coordinate with the Appalachian Region Commission (ARC) to foster the development of public transportation service in eligible areas: FTA's ADTAP will enhance existing transportation service and create new services in order to decrease isolation within the region.

2. **NATIONAL PROGRAM OBJECTIVES.** While this program is funded under FTA's Section 5311 program, the national program objective is delivery of safe, reliable public transportation services to rural areas in the Appalachian region. Consistent with the objectives of the Section 5311 program, funds should enhance access to health care, shopping, education, employment, public services, and recreation.
3. **ELIGIBLE RECIPIENTS AND SUBRECIPIENTS.** Eligible rural recipients under the ADTAP include thirteen states located in the Appalachian region: Alabama, Georgia, Kentucky, Maryland, Mississippi, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia as defined under Title 40, section 14010 of the Appalachian Regional Development. Subrecipients of ADTAP funding include state or local governmental authorities, nonprofit organizations, and operators of public transportation services.
4. **ELIGIBLE SERVICES AND SERVICES AREAS.** A service area must be located in the Appalachian region to be eligible for funds. (Please see Table 3: Eligible States and Counties in the Appalachian Region.)

**TABLE 3
STATES AND COUNTIES IN THE APPALACHIAN REGION**

State	Counties
Alabama	Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Colbert, Coosa, Cullman, De Kalb, Elmore, Etowah, Fayette, Franklin, Hale, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Limestone, Macon, Madison, Marion, Marshall, Morgan, Pickens, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Tuscaloosa, Walker, and Winston
Georgia	Banks, Barrow, Bartow, Carroll, Catoosa, Chattooga, Cherokee, Dade, Dawson, Douglas, Elbert, Fannin, Floyd, Forsyth, Franklin, Gilmer, Gordon, Gwinnett, Habersham, Hall, Haralson, Hart, Heard, Jackson, Lumpkin, Madison, Murray, Paulding, Pickens, Polk, Rabun, Stephens, Towns, Union, Walker, White, and Whitfield
Kentucky	Adair, Bath, Bell, Boyd, Breathitt, Carter, Casey, Clark, Clay, Clinton, Cumberland, Edmonson, Elliott, Estill, Fleming, Floyd, Garrard, Green, Greenup, Harlan, Hart, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, McCreary, Madison, Magoffin, Martin, Menifee, Metcalfe, Monroe, Montgomery, Morgan, Nicholas, Owsley, Perry, Pike, Powell, Pulaski, Robertson, Rockcastle, Rowan, Russell, Wayne, Whitley, and Wolfe
Maryland	Allegany, Garrett, and Washington
Mississippi	Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Itawamba, Kemper, Lee, Lowndes, Marshall, Monroe, Montgomery, Noxubee, Oktibbeha, Panola, Pontotoc, Prentiss, Tippah, Tishomingo, Union, Webster, Winston, and Yalobusha
New York	Allegany, Broome, Cattaraugus, Chautauqua, Chemung, Chenango, Cortland, Delaware, Otsego, Schoharie, Schuyler, Steuben, Tioga, and Tompkins
North Carolina	Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Davie, Forsyth, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Stokes, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin, and Yancey
Ohio	Adams, Ashtabula, Athens, Belmont, Brown, Carroll, Clermont, Columbiana, Coshocton, Gallia, Guernsey, Harrison, Highland, Hocking, Holmes, Jackson, Jefferson, Lawrence, Mahoning, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Trumbull, Tuscarawas, Vinton, and Washington
Pennsylvania	Allegheny, Armstrong, Beaver, Bedford, Blair, Bradford, Butler, Cambria, Cameron, Carbon, Centre, Clarion, Clearfield, Clinton, Columbia, Crawford, Elk, Erie, Fayette, Forest, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lackawanna, Lawrence, Luzerne, Lycoming, McKean, Mercer, Mifflin, Monroe, Montour, Northumberland, Perry, Pike, Potter, Schuylkill, Snyder, Somerset,

	Sullivan, Susquehanna, Tioga, Union, Venango, Warren, Washington, Wayne, Westmoreland, and Wyoming
South Carolina	Anderson, Cherokee, Greenville, Oconee, Pickens, and Spartanburg
Tennessee	Anderson, Bledsoe, Blount, Bradley, Campbell, Cannon, Carter, Claiborne, Clay, Cocke, Coffee, Cumberland, De Kalb, Fentress, Franklin, Grainger, Greene, Grundy, Hamblen, Hamilton, Hancock, Hawkins, Jackson, Jefferson, Johnson, Knox, Lawrence, Lewis, Loudon, McMinn, Macon, Marion, Meigs, Monroe, Morgan, Overton, Pickett, Polk, Putnam, Rhea, Roane, Scott, Sequatchie, Sevier, Smith, Sullivan, Unicoi, Union, Van Buren, Warren, Washington, and White
Virginia	Alleghany, Bath, Bland, Botetourt, Buchanan, Carroll, Craig, Dickenson, Floyd, Giles, Grayson, Henry, Highland, Lee, Montgomery, Patrick, Pulaski, Rockbridge, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe Note: The following independent cities in Virginia are also within the Appalachian Region: Bristol, Buena Vista, Covington, Galax, Lexington, Martinsville, Norton, and Radford.
West Virginia	<i>All counties:</i> Barbour, Berkeley, Boone, Braxton, Brooke, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hancock, Hardy, Harrison, Jackson, Jefferson, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall, Mason, McDowell, Mercer, Mineral, Mingo, Monongalia, Monroe, Morgan, Nicholas, Ohio, Pendleton, Pleasants, Pocahontas, Preston, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Wayne, Webster, Wetzell, Wirt, Wood, and Wyoming

Note: Link to maps of designated States and Counties in the Appalachian Region
http://www.arc.gov/appalachian_region/MapofAppalachia.asp

5. **FORMULA ALLOCATIONS.** FTA apportions ADTAP funds to designated states by a statutory formula based on the guidelines established under section 9.5(b) of the Appalachian Regional Commission Code. The allocation includes each state's remaining estimated need to complete eligible sections of the Appalachian Development Highway System (ADHS) as determined from the latest available cost estimates for completion of the system. Cost estimates are produced at approximately five-year intervals. Allocations contain upper and lower limits in amounts or percentages to be determined by the Commission and are made in accordance with legislative instructions.
6. **FUNDS AVAILABILITY.** Appalachian Development Program funds are available for the fiscal year in which they are apportioned plus two additional fiscal years. If the state does not obligate its allocation during this period, FTA reallocates the funds by formula among the states that are eligible to receive this funding.
7. **ELIGIBLE PROJECTS.** A state may use ADTAP program funds for capital projects, operating assistance, planning, job access reverse commute projects, and the acquisition of public transportation services, including service agreements with private providers of public transportation. The state may also use up to 10 percent of its ADTAP program funds to

administer the program and provide technical assistance to subrecipients. Technical assistance includes project planning, program and management development, public transportation coordination activities, and research the state considers appropriate to promote effective delivery of public transportation in rural areas of the Appalachian region.

8. LOCAL SHARE.

- a. A 20 percent local match is required for capital and 50 percent for operating expenses.
- b. There is no local match required for the additional 10 percent permitted for administration and technical assistance for ADTAP projects.
- c. The sliding scale rate under Section 5311 is applicable to the ADTAP (see Chapter III, Section 5, for more information).
- d. For eligible sources of local match see Chapter III, Section 4.c of this circular.

9. PROGRAM ADMINISTRATION. The ADTAP funds are a separate allocation, but are apportioned annually and can be combined in the regular Section 5311 grant application as long as the state DOT accounts for the use of ADTAP funds in the Program of Projects. In order to maximize Section 5311 program funding an eligible state should use ADTAP formula funding as the funding source for selected rural transit projects within the designated Appalachian region. Section 5311 funds should be used to address needs not covered by the ADTAP allocation.

10. TRANSFER PROVISIONS. States that are eligible for the ADTAP may use amounts that cannot be used for operating expenses for a highway project if the governor approves the use in writing after appropriate notice and an opportunity for comment and appeal are provided to affected public transportation providers in the Appalachian region. The governor must certify that the local transit needs are being addressed. In order for FTA to consider the transfer, a state must provide documentation to the FTA regional office that includes a description of the consultation used and certification by the local providers (i.e., state, local transit operators, and local RTPO [if applicable]) that all local operating needs are met. Upon receipt, FTA will review the request and if approved will transfer the funds consistent with FTA's transfer process (please see Chapter III, Section 6 of this circular).

11. STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM (STIP) AND/OR TRANSPORTATION IMPROVEMENT PROGRAM (TIP) REQUIREMENT. A state requesting ADTAP must comply with the planning requirements of 49 U.S.C. 5303 through 5305. Projects proposed for ADTAP funding must be a product of the statewide and nonmetropolitan transportation planning process and/or the metropolitan planning process specified in 23 CFR part 450 and 49 CFR part 613. With limited exceptions, states must include all federal funds to be used for highway or transit projects in a statewide transportation improvement program (STIP) consistent with 23 U.S.C. 135 and 49 U.S.C. 5304. States must include ADTAP funds in the STIP (see Chapter IV. 2 for detailed information).

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VIII. INTERCITY BUS

1. **PROGRAM SUMMARY.** Section 5311(f) of title 49, United States Code, requires each state to spend 15 percent of its annual Section 5311 apportionment “to carry out a program to develop and support intercity bus transportation,” unless the governor certifies that “the intercity bus service needs of the state are being met adequately.” Section 5311(f) requires a state to consult with intercity bus providers before seeking a governor’s certification. The consultation requirements are discussed in Section 4 of this chapter. The required percentage applies only to the amount of FTA’s annual apportionment of Section 5311 funds to the state. The required percentage does not apply to any funds the state subsequently transfers to its formula grants for rural area program from another program (such as Section 5307).
2. **NATIONAL OBJECTIVES.** In many states, intercity bus service is a vital link between otherwise isolated rural communities and the rest of the nation. Historically, major intercity bus carriers abandoned less productive routes. Patronage generated in rural areas, however, appears to be important to the continuing viability of the remaining intercity routes. One objective of the funding for intercity bus service under Section 5311, therefore, is to support the connection between rural areas and the larger regional or national system of intercity bus service. Another objective is to support services to meet the intercity travel needs of residents in rural areas. A third objective is to support the infrastructure of the intercity bus network through planning and marketing assistance and capital investment in facilities. FTA encourages states to use the funding under Section 5311(f) to support these national objectives, as well as priorities determined by the state.
3. **GOVERNOR’S CERTIFICATION.** A state is required to expend at least 15 percent of its apportionment for an intercity bus program, unless “the Governor of the State certifies to the Secretary, after consultation with affected intercity bus service providers, that the intercity bus service needs of the State are being met adequately.”

The statutory provision for certification by the governor implies a statewide assessment of intercity bus service currently available and of any existing needs. The legislative history indicates that the assessment of intercity bus needs may be made relative to other rural needs in the state. A state certifying that its needs are adequately met must demonstrate that it has assessed statewide intercity mobility needs no more than four years before the date of the certification. The state must document in the state management plan (SMP) its consultation process and any process that it develops for periodically assessing statewide needs. FTA will evaluate evidence that the state has followed its process in state management reviews approximately every three years.

A state must certify that the intercity bus service needs of the state are being met adequately for each fiscal year that it does not intend to use 15 percent of its Section 5311 apportionment for intercity bus service. The state may include more than one year in a single signed certification. If the state determines that expenditure of some amount of funds less than the full 15 percent will result in needs being met adequately, it may submit a “partial” certification for the remainder of the 15 percent and spend only the portion needed to ensure that the intercity bus needs are met adequately.

In some cases, a state may have obligated and assigned funds to intercity bus projects in prior years, or reserved funds for intercity bus projects not yet selected. A state may also have withheld prior year funds from obligation pending a decision on intercity bus needs. In either of those cases, if the funds committed or reserved for intercity bus projects are later determined not to be needed for intercity bus service, the state may submit a retroactive certification within the period of availability of the funds. This action will permit the use of the prior year funds for other rural transit projects, subject to the notification and approval conditions described in Chapter IV of this circular and consultation with intercity bus providers before certification.

The governor of the state or his or her duly authorized designee must sign a certification letter addressed to the federal transit administrator, with a copy to the FTA regional office. The letter should include sufficient information regarding the consultation process and needs assessments for FTA to make an initial determination that the certification is supported by the results of the process. In addition, in its oversight activities, FTA will examine the basis for a governor's certification. The assurance the state makes as part of the annual certifications and assurances that it will meet the requirements of Section 5311(f) does not substitute for a certification by the governor that the needs are met adequately. Appendix F provides a sample certification letter.

4. CONSULTATION PROCESS REQUIREMENTS.

- a. "Consultation" is defined in the joint Federal Highway Administration (FHWA) FTA Planning Regulations, 23 CFR part 450 as, "one party confers with another identified party in accordance with an established process and, before taking action(s), considers that party's views and periodically informs that party about action(s) taken." For the purposes of this provision, FTA has adopted this definition of consultation.
- b. The state's intercity consultation process must include the following elements:
 - (1) identification of intercity bus providers in the state;
 - (2) activities the state will perform as part of consultation with identified providers and intercity bus organizations;
 - (3) an opportunity for intercity bus providers to submit proposals for funding as part of the state's distribution of its annual apportionment; and
 - (4) a direct correlation between the results of the consultation process and a determination that the state's intercity service needs are being met adequately.
- c. In developing the consultative process elements mentioned above, FTA suggests consideration of the following ideas, many of which are drawn from Transportation Cooperative Research Program (TCRP) Report 79, "Effective Approaches to Meeting Rural Intercity Bus Transportation Needs":
 - (1) Identifying Private Intercity Carriers. Intercity carriers serving a state can be identified from several sources, including:

- (a) Russell's Official National Motor Coach Guide;
 - (b) websites of private intercity bus operators;
 - (c) bus industry directories;
 - (d) state regulatory agency listings; and
 - (e) trade associations, such as the American Bus Association and the United Motorcoach Association.
- (2) Activities of Consultation.
- (a) Inform intercity bus carriers of the state's rural planning process and encourage their participation in that process, and where a state is considering possible certification of needs being met adequately, provide an opportunity to submit comments, and/or request a public meeting to identify unmet needs and discuss proposals for meeting those needs.
 - (b) Include intercity providers' participation in scheduled meetings, such as state agency transit meetings and public transit conferences.
 - (c) Meet with individual intercity providers periodically.
 - (d) Notify providers either through direct mail or advertise in various locations around the state of availability of funds for the current year's intercity bus program.
 - (e) Inform intercity bus providers about the development of local, coordinated public transit-human services transportation plans required by Section 5310 and encourage intercity bus provider participation.
 - (f) Solicit comments through direct mail and advertise in newspapers in various locations around the state of the state's intent to certify needs are being met adequately unless needs are identified.
- (3) Available Resources for Assessment and Analysis of Intercity Bus Needs. It is appropriate and conducive for the state to work in partnership with the American Bus Association, and/or carriers individually, in periodic assessment of needs including meaningful connections to the national intercity bus network.
- (a) Include an assessment of intercity bus needs in the development of coordinated public transit-human services transportation plans.
 - (b) Include intercity bus transportation in statewide long range planning.

- (c) Use Section 5311 state administration funds, statewide planning apportionments, or state Rural Transportation Assistance Program (RTAP) allocations for periodic statewide assessments of needs.
5. IN-KIND MATCH FOR INTERCITY BUS. Section 5311(g)(3)(D) provides that in the case of an intercity bus project that includes both feeder service and an unsubsidized segment of intercity bus service to which the feeder service connects, the local match “may be derived from the costs of a private operator for the unsubsidized segment of intercity bus service as an in-kind match for the operating costs of connecting rural intercity bus feeder service funded under 5311(f).”
- a. Defining the FTA Assisted Project. To use the net project cost provided by a private operator as in-kind match, the FTA-assisted project must be defined as including both the feeder service and an unsubsidized segment of the intercity bus network to which it connects.
 - b. Sources of In-Kind Match. The unsubsidized private operator costs can be used as the local match only “if the private operator agrees in writing to the use of the costs of the private operator for the unsubsidized segment of intercity bus service as an in-kind match.”
 - c. Cost Allowable As In-Kind Match. In order to be eligible to be used as in-kind match, a cost must be otherwise allowable under the project. Thus to be eligible under Section 5311, the net project costs contributed by the private operator as in-kind match must connect the rural community to further points.
 - d. Calculating the Eligible Net Cost of the Private Operator Allowable as In-Kind Match. Fare revenues of the private operator for the unsubsidized segment must be subtracted from the total cost to operate the unsubsidized segment to determine the eligible amount of in-kind match. For administrative simplicity, FTA allows two methods for the private operator to determine its eligible net cost that can be used as local match.

Under the first method, the private operator is presumed to be collecting at least enough in fares to cover the operating costs of the unsubsidized service, and thus only the capital costs of the unsubsidized service may be used as in-kind match. To simplify matters, FTA will use the percentages allowed in the capital cost of contracting guidance to determine how much of the private operator’s total costs are attributable to capital. (e.g., 50 percent where the operator provides and maintains all the equipment, less if FTA funded equipment is provided).

Under the second method, the private operator can directly calculate the net project cost of the unsubsidized segment and must provide to FTA verifiable information showing the eligible capital and operating expenses as well as fare revenues attributable to the unsubsidized segment that were used to make the calculation.

e. Example of a Project.

(1) Feeder service: point A to B (\$15,000 total cost less \$5,000 fare box revenue equals \$10,000 net project cost to be matched by 5311(f)).

(2) Connecting unsubsidized private service:

- a. Method 1: point B to C: \$10,000 net project cost based on 50% capital cost of contracting guidance.
- b. Method 2: point B to C: \$10,000 net project cost based on \$15,000 in operating costs, \$5,000 in capital costs and subtracting \$10,000 in fare box revenues (\$15K + \$5K - \$10K).

(3) The FTA Section 5311(f) project is defined as service from A to C.

The net project cost is \$20,000 (\$10,000 from A to B and \$10,000 from B to C).

FTA Section 5311(f) can fund \$10,000, matched with \$10,000 contributed by the private operator in the B-C segment.

The examples above assume a 50/50 match ratio for operating assistance. The federal share may be different if a state is eligible to use the sliding scale match ratios.

f. Excess or Insufficient In-Kind Match. If there is excess in-kind match available from the net project costs of the private provider, it cannot be used to increase the federal share above the actual operating deficit of the project. If there is not enough capital in-kind match to equal the Section 5311(f) funds needed to cover the operating deficit, the state or local agency would have to produce the difference in cash.

g. Documentation Required in State's Application for Section 5311 Funding. When applying to use in-kind match, the state must provide the following supplemental information with its Section 5311 grant application:

(1) For each project using the match, the state must provide a description of the feeder service and the connecting service, identifying locations served by each, and the connections. Only those runs that actually connect with the feeder service can be used for match. For example, if the private operator makes four trips per day through point B but the feeder service only operates twice daily, only the capital costs of the two daily connecting trips can be used as in-kind match.

(2) Itemize the total and net costs of each segment used in the project description (e.g., A-B and B-C, by actual place names, and level of service). The value of the in-kind match must be based on the documented costs incurred by the private operator in providing the connecting service, with reasonable calculations by costs per mile, or costs per hour, for example. Capital cost of contracting percentages may be used to determine the amount of total costs attributable to capital, unless the operator can

provide documentation that the capital costs (including preventive maintenance) are higher or the operator intends to include net operating costs not being covered by fare box revenue

- (3) If the amount calculated as in-kind does not provide sufficient match for the entire operating deficit of the feeder service, additional cash match is required.
- (4) The application should include documentation that the private operator has consented to the arrangement, documented the costs of the private service being used for in-kind match, and acknowledged that the private service is part of the FTA project and thus is covered by the labor warranty and other federal requirements.

h. Grant Applications Review and Processing.

(1) FTA Role.

- (a) Review the documentation to ensure the project is eligible for Section 5311(f) assistance and that sufficient local match is provided by the in-kind capital contribution or other sources to match the operating assistance provided.
- (b) Add a comment to the internal review comments in FTA's electronic award management system noting that the use of in-kind match has been reviewed and approved pursuant to this guidance for this provision.

(2) State Role. The state implements Section 5311(f) as part of its management of the Section 5311 program. FTA encourages the state to look at the intercity bus transportation needs of the entire state and to work with neighboring states in order to adopt a program that will support a network of intrastate services and provide connections with a national network of interstate service. The state is encouraged to work with private providers of intercity bus transportation for potential use of the program. The state will provide available information to FTA or its contractors upon request to support a national evaluation of the implementation of Section 5311(f).

6. ELIGIBLE SUBRECIPIENTS. The definition of a subrecipient in Section 5311(a)(2) includes an operator of intercity bus service that receives federal transit program grant funds through a state or Indian tribe that is a recipient. In some instances, intercity bus providers may be unwilling or unable to accept the terms and conditions the state applies to subrecipients and may prefer to maintain a contractual relationship, in order to isolate the remainder of their operations from federal requirements related to a grant. The state may use either mechanism to provide assistance to private operators for intercity bus service. In either case, the state should use a merit-based selection process to ensure that the private operator is qualified, will provide eligible service, can comply with federal and state requirements, and is the best, or only, provider available to offer service at a fair and reasonable cost.
7. ELIGIBLE SERVICES AND SERVICE AREAS. Connection to the national network of intercity bus service is an important goal of Section 5311(f) and services funded must make meaningful connections wherever feasible. Intercity bus projects may include package express service, if it is incidental to passenger transportation. The definition of intercity bus

does not include commuter service (service designed primarily to provide daily work trips within the local commuting area). Commuter service is excluded because it is considered a local public transportation service, eligible for assistance under Section 5311 but not counting toward the required percentage for Section 5311(f).

Intercity service is not limited by the size of the vehicle used or by the identity of the carrier. Intercity bus does not include air, water, or rail service. While much of the public transportation service assisted under Section 5311 covers large distances because of the nature of the areas served, not all long distance trips are included in the definition of intercity service. For example, service that provides extensive circulation within a region (in contrast to regular but infrequent service from limited points in the community of origin to limited points in the destination community) is not considered intercity service, although it may be an eligible public transportation service. Similarly, service that only incidentally stops at an intercity bus facility among other destinations within the city at either end of a route that covers a long distance, without regard to scheduled connections, is eligible for Section 5311 assistance as public transportation, but is not an intercity feeder service.

8. ELIGIBLE ACTIVITIES Eligible activities under Section 5311(f) must support intercity bus service in rural areas. Section 5311(f) specifies eligible intercity bus activities to include “planning and marketing for intercity bus transportation, capital grants for intercity bus shelters, joint-use stops and depots, operating grants through purchase-of-service agreements, user-side subsidies and demonstration projects, and coordination of rural connections between small public transportation operations and intercity bus carriers.” This listing does not preclude other capital and operating projects for the support of rural intercity bus service. For example, the state may provide operating assistance to a public or private nonprofit organization for the direct operation of intercity service after appropriate consideration of participation by private for-profit service providers. Capital assistance may be provided to purchase vehicles or vehicle-related equipment such as wheelchair lifts for use in intercity service. Charter and tour services are not eligible for FTA assistance. See 49 CFR part 604.

FTA encourages the participation of private companies that provide public transportation to the maximum extent feasible in this and other FTA programs. Among the various types of projects in which private intercity bus operators may wish to participate are improvements to existing intercity terminal facilities for rural passengers, modifications to transit facilities to facilitate shared use by intercity bus, intercity rail, and rural transit operators, operating assistance to support specific intercity route segments, and applications of intelligent transportation systems (ITS) technology for coordinated information and scheduling.

FTA funds can be used for all aspects of intercity bus and rail facilities in facilities (such as intermodal terminals) that meet the criteria in Section 5302(3)(G) for joint development projects. FTA published final guidance for joint development projects in the *Federal Register* on February 7, 2007 (72 FR 5788).

9. FEEDER SERVICE. The “coordination of rural connections between small transit operations and intercity bus carriers” may include the provision of service that acts as a feeder to intercity bus service, and which makes meaningful connections with scheduled intercity bus service to more distant points. The feeder service is not required to have the same

characteristics as the intercity service with which it connects. For example, feeder service may be demand-responsive, while intercity service is by definition fixed route. Examples of eligible costs include marketing and extended hours of service in order to connect with scheduled intercity service. Where feasible, intercity bus feeder service may also provide access to intercity connections with rail or air service. Rural transit providers operating feeder service with destinations across state lines are required to comply with the Federal Motor Carrier Safety Administration (FMCSA) regulations. Intrastate feeder service may also trigger compliance with FMCSA regulations if interlining is involved (issuing a single ticket for the feeder service and the trip provided by an interstate carrier). Section 5311(f) funds may be used for expenses incurred by a public transit operator as a result of FMCSA requirements triggered by the provision of feeder services.

10. ADA REGULATIONS. Intercity bus operators are subject to the Department of Transportation's (DOT) Americans with Disabilities Act of 1990 (ADA) over-the-road bus regulations, at 49 CFR part 37, subpart H (49 CFR 37.181 *et seq.*). Effective October 29, 2012, 100 percent of over-the-road buses operated by large operators (Class I motor carriers) that provide fixed-route service—service operated along a prescribed route according to a fixed schedule—must be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Small operators must either ensure their vehicles are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, or must ensure that equivalent service, as defined in 49 CFR 37.105, is provided to individuals with disabilities. Generally, over-the-road buses that comply with 49 CFR part 38, subpart G (49 CFR 38.151 *et seq.*) will be considered accessible. In the event the intercity bus service is provided by a public entity or under contract to a public entity, the vehicles must be compliant with both 49 CFR 38.23 and subpart G of part 38. Complementary paratransit service is not required for intercity bus service.
11. FEDERAL SHARE. The federal share for intercity projects is the same as for the Section 5311 program as a whole: 50 percent of the net cost for operations and 80 percent of the net cost for capital projects and project administration. State administration, planning, and technical assistance in support of intercity bus transportation are eligible at 100 percent federal share if applied against the cap on state administration expenses. The amount of Section 5311 funds used for planning for intercity bus transportation is not limited by the 10 percent cap on state administration. However, the federal share of any planning assistance for intercity bus not included in the 10 percent allowed for state administration is limited to 80 percent of the planning costs. The sliding scale match described in Chapter III, part 3 is applicable.
12. CAPITAL PROJECTS IN URBANIZED AREAS. Use of Section 5311(f) funds for capital projects in UZAs is limited to those aspects of the project that can be identified as directly benefiting and supporting service to and from rural areas. These projects must be included in both the metropolitan transportation improvement program (TIP) and the statewide transportation improvement program (STIP) and follow the appropriate project selection requirements contained in the joint planning rule. (See 23 CFR part 450 and 49 CFR part 613.)

13. **OBLIGATION OF FUNDS.** In the absence of a certification from the governor that intercity needs are adequately met, 15 percent of the state's annual apportionment must be obligated for intercity bus transportation within the period of availability (three years).
- a. **Program of Projects.** All projects in support of intercity bus service should be clearly identified and grouped together in the state's program of projects. Funds may be listed for specific projects in Category A or B. (Note, however, that funds in Category B must be advanced to those projects identified within the period of availability.) See Chapter IV, section 5, for detailed information on Category A and B projects. The percentage required to be expended for intercity bus transportation may be withheld and not obligated in a given year, if the state plans to obligate the funds at a later date along with funds from subsequent years' apportionments. The state should note its intention to withhold funds for later obligation in the state's application to FTA.
 - b. **Budget.** In the project budget, the state should separately group the projects that are dedicated to the support of intercity service under the scope code 634, "Intercity Bus Transportation." The budget may include any activity code under scope code 634 to describe the intercity projects (e.g., capital, operating, and planning projects, or program reserve for intercity bus projects not yet identified).
 - c. **Labor Protections.** All Section 5311 operational projects, including intercity bus projects, require agreement to the terms and conditions of the standard Section 5333(b) special warranty for the Section 5311 program.
 - d. **Enforcement of Compliance.** If the state does not ultimately expend the funds for intercity service, the funds will lapse and will be reapportioned among all states. If a state chronically fails to comply with the requirement to fund projects for intercity bus needs within the period of availability, FTA may impose other sanctions. Within the parameters described in this chapter, FTA will rely on the state's determination of which projects support intercity bus services.
14. **SURFACE TRANSPORTATION PROGRAM ELIGIBILITY.** Funds made available under title 23 of the United States Code for the surface transportation program (STP) may be transferred to the 5311 program. The funds may be used to cover capital costs of publicly or privately owned vehicles and facilities that are used to provide intercity bus service.

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IX. RURAL TRANSPORTATION ASSISTANCE PROGRAM

1. **PROGRAM SUMMARY.** Title 49 U.S.C. 5311(b)(3) authorizes the secretary “to make grants and contracts for transportation research, technical assistance, training and related support services in rural areas.” The rural transportation assistance program (RTAP) provides a source of funding to assist in the design and implementation of training and technical assistance projects and other support services tailored to meet the specific needs of transit operators in rural areas. No more than 2 percent of the funds appropriated for Section 5311 each year are available for RTAP. Of that amount no more than 15 percent is available for projects of a national scope, with the balance apportioned to the states. The state program provides an annual allocation to each state to develop and implement training and technical assistance programs in conjunction with the state’s administration of the Section 5311 formula assistance program. The national program provides for the development of information and materials for use by local operators and state administering agencies and supports research and technical assistance projects of national interest.
2. **PROGRAM OBJECTIVES** The objectives of RTAP are:
 - a. to promote the safe and effective delivery of public transportation in rural areas and to make more efficient use of public and private resources;
 - b. to foster the development of state and local capacity for addressing the training and technical assistance needs of the rural transportation community;
 - c. to improve the quality of information and technical assistance available through the development of training, technology, and technical assistance resource materials;
 - d. to facilitate peer-to-peer self-help through the development of local networks of transit professionals;
 - e. to support the coordination of public, private, specialized, and human service transportation services; and,
 - f. to build a national database on the rural segment of the public transportation industry.
3. **FUNDING AND ALLOCATIONS**
 - a. **Authorization.** RTAP is authorized at 49 U.S.C. 5311(b)(3). Not more than 2 percent of the funds available to carry out Section 5311 shall be available for the RTAP program.
 - b. **Allocation.** FTA allocates RTAP funds to the states by an administrative formula that consists of a \$65,000 floor for each state, including Puerto Rico, and a \$10,000 floor for the insular areas of Guam, American Samoa, and Northern Marianas. FTA allocates the balance based on rural population in the 2010 Census.
 - c. **Funds Availability.** State RTAP funds have the same period of availability as the Section 5311 formula funds: the fiscal year in which they are allocated plus two additional fiscal

years. If the state does not obligate its allocation during this period, FTA reallocates the funds among all the states the following fiscal year.

- d. Federal Matching Requirements. There is no local match requirement for RTAP funds.

4. STATE PROGRAM DEVELOPMENT AND DELIVERY.

- a. Eligible Assistance Categories. States may use RTAP funds to support rural transit activities in four categories: training, technical assistance, research, and related support services. The purchase of equipment to support the four eligible activities is an eligible expense.
- b. Program Development. The state should develop state RTAP activities through a process that provides maximum opportunity for the participation of rural transit operators, both public and private, in identifying and establishing priority areas of need for transportation research, technical assistance, training, and related support services in rural areas. Establishment of a state RTAP advisory committee is one effective way to enable rural transit operators within the state to provide ongoing review and comment on the state's program development and delivery. The costs associated with implementing a state RTAP advisory committee are eligible RTAP expenses.
- c. Program Delivery. States have broad discretion in deciding how best to provide assistance and implement projects under the state RTAP program. Delivery mechanisms include:
- (1) assistance by in-house state staff;
 - (2) contracts with private consultants, universities, nonprofit organizations, state transit associations, or other organizations of operators;
 - (3) contracts for administration of the state RTAP program or particular elements of it by the state's local technical assistance program (LTAP) center (a Federal Highway Administration [FHWA]-sponsored resource with a demonstrated capacity for delivering training and technical assistance on highway topics that may represent a valuable in-state resource for transit as well);
 - (4) support of peer-to-peer networks of individuals to provide assistance to each other;
 - (5) interagency agreements with other state agencies, both within the state and in other states; and
 - (6) scholarships or tuition and expenses for people to attend training courses or workshops.
- d. State Administrative Expenses. The state may not use state RTAP funds for state administrative or overhead expenses. However, any state administrative expense incurred in administering the state RTAP program may be covered by the 10 percent of a state's annual Section 5311 formula apportionment available for state administration. The direct

cost of using state staff to deliver RTAP services such as training or technical assistance is a program expense, not an administrative expense. Contracts with other organizations to administer and deliver RTAP services may include reasonable administrative and overhead costs.

- e. RTAP Participation by Providers in Urbanized Areas. Providers of specialized transportation in urbanized areas, such as Section 5310 funded agencies, as well as public transit operators in small urbanized areas, have many of the same training and technical assistance needs as transit providers in rural areas. FTA permits participation by these providers in RTAP sponsored activities, at the state's discretion, so long as the activities are primarily designed and delivered to benefit rural transit providers. When urbanized area providers are more than incidental beneficiaries of an RTAP supported activity, the state should allocate the costs of the project fairly between RTAP and other sources. RTAP funds should pay only for the proportion of the project costs attributable to the rural beneficiaries.
- f. Participation by Indian tribes. FTA strongly encourages states to consider the needs of Indian tribes, including those tribes that are not receiving funding from the state's Section 5311 apportionment, for technical assistance and training related to tribal transit service.
- g. Pooling of State RTAP Funds. FTA encourages states to consider "pooling" or consolidating RTAP funds in order to support activities or projects that would be more effectively carried out on a larger scale than a single state. Two or more states within a region could do such pooling.

Examples of activities that could be funded through pooled state RTAP funds include regional workshops or training courses, development of technical assistance information, and peer-to-peer assistance activities. Contributions to combined efforts such as the Multistate Technical Assistance Program (MTAP) of the American Association of State Highway and Transportation Officials (AASHTO) are eligible only to the extent that they support RTAP objectives and benefit rural public transportation. FTA has determined that annual MTAP dues are an eligible state RTAP expense.

Two methods are available to consolidate or pool funding:

- (1) Participating states may obligate funds for the joint project as part of the state RTAP program of projects in its Section 5311 grant and subsequently transfer the funds to the implementing organization through a contract or subagreement; or
- (2) Participating states may designate a single state to receive and administer all of the pooled funds.

Each participating donor state informs its FTA regional office, in writing, of the amount of state RTAP funds to be transferred to the allocation of the state administering the joint project. FTA will adjust the allocations accordingly and the administering state will apply to FTA for the entire funding of the joint project as part of the state RTAP program of projects in its Section 5311 grant application.

5. PROGRAM MANAGEMENT. The state administers state RTAP funds in conjunction with its management of the Section 5311 formula assistance program. Application procedures, program administration, and management requirements must correspond to those for Section 5311 as described throughout this circular.
6. NATIONAL PROGRAM. The purpose of the National RTAP is to support the state programs and develop information resources about rural public transportation. A fifteen-member project review board that includes both state administrators and local transit operators, including one tribal representative, guides the development of national program activities and products. FTA directly funds the national program through cooperative agreements and contracts. The national program currently includes the following elements:
 - a. development of training materials and information resources;
 - b. a national resource center, including a toll-free hotline for information and technical assistance (1-888-589-6821), online information resource center, on the link at <http://www.nationalrtap.org/>, a peer-to-peer technical assistance network;
 - c. regional and national meetings and workshops that support the state RTAPs and promote information exchange about rural public transportation; and
 - d. periodic updates and analysis of the national rural transportation database and publication of directories of subrecipients under FTA formula programs for rural areas and for seniors and people with disabilities.
7. OTHER TECHNICAL ASSISTANCE RESOURCES. Other national programs and projects also provide valuable technical assistance resources for state and rural transit providers. FTA-funded technical assistance activities include Easter Seals Project ACTION, The National Center for Senior Transportation, and the National Center for Mobility Management. Information about these and other federal resources are available at <http://www.unitedweride.gov>. In addition, regional centers such as FHWA's Tribal Transportation Assistance Program (TTAP) Centers and the Small Urban and Rural Transit Center (SURTC) at North Dakota State University offer additional resources to states and providers in those regions.

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X. PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS

1. **PROGRAM SUMMARY.** Title 49 U.S.C. 5311(j) authorizes the Public Transportation on Indian Reservations (Tribal Transit) Program, which allocates funds by both statutory formula and through a competitive discretionary program. FTA consulted with Tribal recipients and stakeholders to implement these program requirements. FTA apportions the available formula funds for grants to Indian tribes for purposes eligible under Section 5311, including capital, operating, planning, job access and reverse commute projects, and administrative costs. For the discretionary allocations, specific project eligibility will be announced in the Notice of Funding Availability (NOFA) that solicits proposals.

FTA will publish a NOFA on an annual basis in the *Federal Register* for the discretionary funds. The NOFA will announce the available funding, application procedures, specific eligibility, and criteria for project selection for the discretionary program. FTA posts all competitive grant opportunities on the federal government's centralized source for information on discretionary grants, Grants.gov. More information about Grants.gov, visit <http://www.grants.gov/>

2. **NATIONAL PROGRAM OBJECTIVES.** The Tribal Transit Program provides direct funding to federally recognized Indian tribes to provide public transportation service on and around Indian reservations or tribal land in rural areas. Funds set aside for the Indian tribes are not meant to replace or reduce funds that Indian tribes receive from a state's Section 5311 funds. The Tribal Transit Program funds are meant to complement any other 5311 funds or other FTA grant funds that applicants may receive.
3. **ELIGIBLE RECIPIENTS.** Eligible recipients under both the discretionary and formula program include federally recognized Indian tribes or Alaska native villages, groups, or communities as identified by the U.S. Department of the Interior Bureau of Indian Affairs (BIA). A tribe must have the legal, financial, and technical capabilities to receive and administer federal funds.
4. **ELIGIBLE SERVICES AND SERVICE AREAS.** The purpose of the Tribal Transit Program is to provide and enhance public transportation on Indian reservations/tribal lands and to provide transit services to serve tribal communities. Tribes must be located in rural areas with populations under fifty thousand, and not identified as an urbanized expansion area by the Bureau of the Census. Tribes must be providing public transit or proposing to provide public transit services. Funds may be used for public transportation capital projects, operating costs of equipment and facilities, transit planning, and acquisition of public transportation services, including service agreements with private providers of public transportation services. Funding may be for planning, start-up transit service, enhancement of existing services, purchase of transit capital items, including vehicles, and operating expenses. Operating expenses include fuel, oil, driver and dispatcher salaries, fringe benefits, and licenses (see Chapter III for full details on Section 5311 eligibility).

5. FORMULA PROGRAM.

- a. Eligibility. The Tribal Transit formula program is distributed to federally recognized Indian Tribes providing public transportation on tribal lands. In order to receive formula funds a tribe must report to the National Transit Database (NTD) on an annual basis.
- b. Tribal Transit Formula. FTA apportions Tribal Transit funds to Indian tribes by a statutory formula using the NTD and the latest available U.S. decennial census data. The three tiers under the formula prescribed by MAP-21 include:
 - (1) Tier 1: 50 percent of the available funds are apportioned based on vehicle revenue miles;
 - (2) Tier 2: 25 percent of the available funds are apportioned among Indian tribes providing at least two hundred thousand annual vehicle revenue miles; and
 - (3) Tier 3: 25 percent of the available funds are apportioned among Indian tribes providing public transportation on tribal lands where more than one thousand low-income persons reside.

6. DISCRETIONARY PROGRAM ELIGIBILITY. Title 49 U.S.C. 5311(j) continues the tribal discretionary program and funds are competitively selected on an annual basis. The funds will be allocated for grants to Indian tribes for purposes eligible under Section 5311; however, FTA may limit the discretionary program based on funding priorities. Eligible projects include:

- a. planning;
- b. capital (replacement or expansion); and
- c. operating for new transit service (start-up).

7. TERMS AND CONDITIONS FOR THE TRIBAL TRANSIT FORMULA AND DISCRETIONARY PROGRAM. When tribes receive funds under the state's Section 5311 program, all federal requirements apply. When tribes receive *only* Tribal Transit funds, tribes must comply with the following cross-cutting requirements:

- a. Common Grant Rule (49 CFR part 18);
- b. Title VI of the Civil Rights Act of 1964;
- c. Section 504 of the Rehabilitation Act of 1973;
- d. Americans with Disabilities Act (ADA) of 1990;
- e. Drug and Alcohol Testing Requirements (49 CFR part 655);
- f. National Environmental Policy Act (NEPA);

- g. Charter Service and School Bus Transportation Requirements in (49 CFR parts 604 and 605);
- h. NTD Reporting Requirement (49 U.S.C. 5335);
- i. Bus Testing (49 CFR part 665);
- j. Labor Protection requirement from the U.S. Department of Labor (DOL); and
- k. Buy America requirements.

Transit Asset Management and Safety Provisions may apply and will be addressed in FTA's rulemaking process for these areas.

8. MATCHING REQUIREMENTS.

- a. No local match is required for the formula program.
- b. A 10 percent local match is required under the discretionary program for both capital and operating expenses. There is no match requirement for planning grants under the discretionary program.

9. INDIRECT COST RATE. FTA will apply a 10 percent cap on indirect costs that are eligible for reimbursement under the formula and discretionary program for operating grants so long as the tribe has an approved cost allocation plan and approved indirect rates by a cognizant federal agency.

10. STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM (STIP) AND/OR TRANSPORTATION IMPROVEMENT PROGRAM (TIP) REQUIREMENT. There is no STIP or TIP requirement under the Tribal Transit Formula or Discretionary Program.

11. FUNDS AVAILABILITY. Funds allocated both by formula and awarded under discretionary competition remain available to tribes for obligation for three federal fiscal years, beginning with the year of apportionment plus two additional years. For example, funds awarded to a tribe in fiscal year 2014 are available until September 30, 2016.

12. PROGRAM ASSISTANCE. Appendix H provides information regarding how to contact FTA regional offices for grant management assistance. Each region has a regional tribal liaison who is available to assist tribes with program requirements and grant applications.

13. NATIONAL TRANSIT DATABASE REPORTS. The National Transit Database (NTD) is FTA's primary national database for statistics on the transit industry. Recipients and subrecipients of Section 5311 grants are required by 49 U.S.C. 5335(a) and (b) to submit data to the NTD as a condition of the award. Specific reporting requirements are included in the NTD reporting instructions manual issued each year. Visit the NTD website at www.ntdprogram.gov for the most recent rural reporting manual. Section 5311(b)(4) specifies that each Section 5311 recipient shall submit an annual report containing information on capital investment, operations, and service provided under Section 5311.

Items to be reported include total annual revenue; sources of revenue; total annual operating costs; total annual capital costs; fleet size and type, and related facilities; revenue vehicle miles; and ridership. To be considered in the formula apportionment Tribal Transit providers must report to the NTD.

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XI. OTHER PROVISIONS

1. **INTRODUCTION.** In addition to the program-specific requirements and guidance provided in this circular, FTA recipients are held to a number of FTA-specific and other federal requirements. This chapter attempts to highlight the major requirements and provides citations to the actual statutory or regulatory text. If there is a conflict between the summary information provided in this chapter and the statute or regulation, the language of the statute or regulation controls. Readers should use this chapter in conjunction with FTA's master agreement and the current fiscal year's certifications and assurances that applicants must sign annually via the FTA electronic award management system to establish or renew their funding relationship with FTA. The master agreement and the certifications and assurances represent the recipients' legal affirmation to abide by FTA and other federal requirements that are applicable to their grant programs.

Some of the topics covered in the master agreement and the certifications and assurances are summarized below, as a reminder to grant recipients of their obligations to FTA. More information about individual requirements can be found in the master agreement and the certifications and assurances on the FTA electronic award management system, and in the references provided below. Recipients may contact their FTA regional counsel for more detail about these requirements.

2. **CHARTER BUS SERVICES.** Title 49 U.S.C. 5323(d) limits charter service provided by federally assisted public transportation operators. FTA regulations specify these limitations in 49 CFR part 604—Charter Service, amended effective April 30, 2008 (73 FR 2326, Jan.14, 2008). Each recipient must enter into an agreement with FTA that the recipient will not engage in charter service unless permitted by FTA charter service regulations. FTA includes that agreement in its annual publication of certifications and assurances. Charter service is defined based on whether a third party requests the service or whether the transit agency initiates the service. If a third party requests service, FTA will utilize four characteristics of charter service to determine whether the proposed service meets the definition of charter. If a transit agency initiates the service, FTA will look at whether the transit agency also charges a premium fare or accepts a subsidy from a third party.

In addition, the charter rule established a new electronic database. Interested private operators must register at the FTA charter registration website (http://www.fta.dot.gov/laws/leg_reg_179.html) in order to receive notice from transit agencies regarding potential charter trips. Private operators may register their geographic area by zip code. When a transit agency receives a request for charter service that does not fit within one of the other exceptions outlined in the rule, and it is interested in performing the service, it must send notice to all private operators registered in the recipient's geographic service area. The notice sent by the transit agency must conform strictly to the requirements of the rule, as additional information may void the notice and may subject the transit agency to a complaint from registered charter providers. The rule also provides for a detailed complaint process for addressing potentially frivolous complaint filings, in addition to complaints against transit agencies that violate the regulation, and a complaint process for removing private registered providers if they are abusing the process. The rule contains

hearing procedures, appeal procedures, and several appendices to assist transit agencies with compliance, including a penalty matrix and a series of frequently asked questions and answers.

3. CIVIL RIGHTS. The recipient agrees to comply with all applicable civil rights statutes and implementing regulations including, but not limited to, the following:
 - a. Nondiscrimination in Federal Transit Programs. The recipient agrees to comply, and assures the compliance of each third party contractor at any tier and each subrecipient at any tier under the project, with the provisions of 49 U.S.C. 5332. These provisions prohibit discrimination on the basis of race, color, religion, national origin, sex, age, and disability, and prohibit discrimination in employment or business opportunity.
 - b. Nondiscrimination on the Basis of Disability. The recipient agrees to comply, and assures the compliance of each third party contractor and each subrecipient at any tier of the project, with the applicable laws and regulations, discussed below, for nondiscrimination on the basis of disability.
 - (1) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), prohibits discrimination on the basis of disability by recipients of federal financial assistance.
 - (2) The Americans with Disabilities Act (ADA), as amended (42 U.S.C. 12101 et seq.), prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities, as well as imposes specific requirements on public and private providers of public transportation.
 - (3) DOT regulations implementing Section 504 and the ADA include 49 CFR parts 27, 37, 38, and 39. Among other provisions, the regulations specify accessibility requirements for the design and construction of new transportation facilities and vehicles; require that vehicles acquired (with limited exceptions) be accessible to and usable by individuals with disabilities, including individuals using wheelchairs; require public entities (including private entities “standing in the shoes” of a public entity as a subrecipient or under a contract or other arrangement) providing fixed-route service to provide complementary paratransit service to individuals with disabilities who cannot use the fixed-route service; and include service requirements intended to ensure that individuals with disabilities are afforded equal opportunity to use transportation systems.
 - (4) Providers of demand responsive service must utilize accessible vehicles, as defined at 49 CFR 37.7 or meet the applicable equivalent service standard. For private and public entities, the service must be equivalent in regard to schedules, response times, geographic areas of service, hours and days of service, availability of information, reservations capability, constraints on capacity or service availability, and restrictions based on trip purpose.
 - (5) Providers of fixed-route service must generally utilize accessible vehicles. Private entities may utilize nonaccessible vehicles if they can provide equivalent service in terms of schedules and headways, in addition to the equivalent service requirements

described above for demand responsive service. Public entities must also provide complementary paratransit service to fixed-route service as defined in 49 CFR 37.121.

- (6) In addition, recipients of any FTA funds should be aware that they also have responsibilities under Titles I, II, III, IV, and V of the ADA in the areas of employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other federal agencies.
- c. Nondiscrimination—Title VI. The recipient agrees to comply, and assures the compliance of each third party contractor and each subrecipient at any tier of the project, with all of the following requirements under Title VI of the Civil Rights Act of 1964.
- (1) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d *et seq.*), provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
 - (2) U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act,” 49 CFR part 21.
 - (3) FTA Circular 4702.1B “Title VI Requirements and Guidelines for Federal Transit Administration Recipients.” This document provides FTA recipients and subrecipients with guidance and instructions necessary to carry out DOT Title VI regulations (49 CFR part 21), and DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons.
 - (4) U.S. DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons (70 FR 74087, December 14, 2005). This guidance clarifies the responsibilities of recipients of federal financial assistance from DOT and assists them in fulfilling their responsibilities to LEP persons, pursuant to Title VI of the Civil Rights Act of 1964 and executive order 13166.
 - (5) FTA Circular 4703.1 “Environmental Justice Policy Guidance for Federal Transit Administration Recipients.” This document provides FTA recipients and subrecipients with guidance and instructions necessary to carry out U.S. DOT Order 5610.2 to Address Environmental Justice in Minority Populations and Low-Income Populations, and executive order 12898 on environmental justice that describes the process that the Office of the Secretary of Transportation and each operating administration will use to incorporate environmental justice principles into existing programs, policies, and activities.
 - (6) U.S. DOT Order to Address Environmental Justice in Minority Populations and Low-Income Populations. DOT Order 5610.2 describes the process that the Office of the Secretary of Transportation and each operating administration will use to incorporate

- environmental justice principles (as embodied in executive order 12898 on environmental justice) into existing programs, policies, and activities.
- d. Equal Employment Opportunity (EEO). The recipient agrees to comply, and assures the compliance of each third party contractor and each subrecipient at any tier of the project, with all equal employment opportunity (EEO) requirements of Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e), and with 49 U.S.C. 5332 and any implementing regulations DOT may issue.
 - e. Nondiscrimination on the Basis of Sex. The recipient agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681 *et seq.*), with DOT implementing regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 CFR part 25.
 - f. Nondiscrimination on the Basis of Age. The recipient agrees to comply with all applicable requirements of the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 *et seq.*), and Department of Health and Human Services’ implementing regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance” (45 CFR part 90), which prohibit discrimination against individuals on the basis of age. In addition, the recipient agrees to comply with all applicable requirements of the Age Discrimination in Employment Act (ADEA), 29 U.S.C. 621 through 634, and Equal Employment Opportunity Commission (EEOC) implementing regulations, “Age Discrimination in Employment Act” (29 CFR part 1625), which prohibit employment discrimination against individuals on the basis of age.
 - g. Disadvantaged Business Enterprise (DBE). To the extent required by federal law, regulation, or directive, the recipient agrees to take the following measures to facilitate participation by DBEs:
 - (1) The recipient agrees and assures that it will comply with MAP-21 Section 1101(b) (23 U.S.C. 101 note), which directs the secretary of Transportation to expend not less than 10 percent of authorized federal funds with DBEs. This 10 percent national goal is aspirational and is used by DOT to help monitor and evaluate DBE participation in DOT-assisted contracting opportunities.
 - (2) The recipient agrees and assures that it will comply with DOT regulation, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,” 49 CFR part 26. Among other provisions, this regulation requires certain recipients of DOT federal financial assistance, namely state and local transportation agencies, to establish goals for the participation of disadvantaged entrepreneurs and certify the eligibility of DBE firms to participate in their DOT-assisted contracts.
 - (3) The recipient agrees and assures that it shall not discriminate on the basis of race, color, sex, or national origin, in the award and performance of any third party contract, or subagreement supported with federal assistance derived from DOT, or in

the administration of its DBE program, and will comply with the requirements of 49 CFR part 26. The recipient agrees to take all necessary and reasonable steps set forth in 49 CFR part 26 to ensure nondiscrimination in the award and administration of all third party contracts and subagreements supported with federal assistance derived from DOT. As required by 49 CFR part 26 and approved by DOT, the recipient's DBE program is incorporated by reference and made part of the grant agreement or cooperative agreement. The recipient agrees that implementation of this DBE program is a legal obligation, and that failure to carry out its terms shall be treated as a violation of the grant agreement or cooperative agreement. Upon notification by DOT to the recipient of a failure to implement its approved DBE program, DOT may impose sanctions as provided for under 49 CFR part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001, and/or the Program Fraud Civil Remedies Act (31 U.S.C. 3801 *et seq.*).

For further guidance, refer to the federal laws, regulations, and executive orders cited in this chapter. FTA's regional civil rights officers or headquarters civil rights staff will also provide current guidance upon request.

4. CLEAN AIR ACT (CAA). The principal CAA requirement with which FTA-funded projects must comply is the transportation conformity rule. The conformity requirements are contained in an Environmental Protection Agency (EPA) regulation (40 CFR part 93), and they apply in nonattainment and maintenance areas only—areas that, either: (1) currently violate one or more of the National Ambient Air Quality Standards (NAAQSs) (nonattainment areas); or (2) once violated the standards but have since been redesignated to attainment status by EPA (maintenance areas). The transportation conformity process applies not only to federally funded projects but also to long-range transportation plans and transportation improvement programs (TIPs). Determining conformity for transportation plans and TIPs is the responsibility of the metropolitan planning organization (MPO), and FHWA and FTA must review the conformity determination and issue a statement saying that the plan and/or TIP conforms. Determining conformity for individual projects is the project sponsor's responsibility, and, again, FTA and/or FHWA must review this determination and issue a statement, usually in the context of the environmental decision document, saying that the project conforms.

The transportation conformity regulation reserves detailed air quality analysis for large projects that have the potential to create new violations or make existing violations worse. There is also a list of exempt highway and transit projects in the regulation that does not require any analysis, which can be found at 40 CFR 93.126. Many transit projects are exempt from the conformity requirements and can be processed expeditiously. Regardless of the type of project being considered, early consultation with FTA is essential for proposed projects in nonattainment and maintenance areas to establish what the requirements are and how best to satisfy them. The planning and environmental staff working in FTA regional offices are the best points of contact for air quality and transportation conformity issues.

5. COMMERCIAL DRIVER'S LICENSE (CDL). All drivers of motor vehicles designed or used to transport more than fifteen passengers (including the driver) or of vehicles which

have a gross combination weight rating of 26,001 pounds or more must have a CDL. Mechanics that drive the vehicles must also have a CDL.

6. DRUG AND ALCOHOL TESTING. In the interest of safety in transit operations, recipients of funding from the 5307 Urbanized Area Formula Program, 5309 Capital Investment Program, 5311 Rural Area Formula Program, and other programs as determined by the Secretary are required by 49 U.S.C. 5331 to establish Drug and Alcohol (D&A) Testing Programs. In the MAP-21 legislation, although the 5316 Job Access and Reverse Commute (JARC) and 5317 New Freedom Programs (NF) were consolidated into the applicable formula programs (5307 and 5311), FTA intends for JARC and NF to continue to be exempt from D&A testing applicability if the recipients receive JARC and NF only.

The purpose of the testing program is to help prevent accidents, fatalities, and injuries resulting from misuse of alcohol or the use of prohibited drugs by employees who perform safety-sensitive functions. Recipients must also certify annually that they are in compliance with DOT and FTA regulations concerning drug and alcohol testing (49 CFR parts 40 and 655 respectively). Establishing a testing program is a condition of FTA funding. For noncompliance with Parts 40 and 655, MAP-21 allows the secretary to bar a recipient from receiving FTA assistance in an *amount that the secretary deems appropriate*. Where applicable, recipients of FTA funding may instead be required to comply with Federal Railroad Administration (FRA) (49 CFR part 219 – for commuter rail), Federal Motor Carrier Safety Administration (FMCSA) (49 CFR part 382 – for contractors with mixed transit/motor carrier/school bus), or United States Coast Guard (USCG) (46 CFR parts 4 and 16 – for ferryboat) regulations concerning drug and alcohol programs.

FTA's regulation requires each employer to establish and implement a substance abuse prevention program consisting primarily of a testing program but with elements requiring training, educating, and evaluating safety-sensitive employees. The regulation requires the development of a detailed policy statement that must be distributed to all safety-sensitive employees and employee organizations. In addition, 49 CFR part 655 Subpart D establishes prohibited alcohol concentration levels and behavior, and employers are directed to take specific action on the basis of the level of alcohol concentration.

Technical assistance materials and training information to help recipients implement the rules are available at FTA's website <http://www.fta.dot.gov> or through contacting the FTA Office of Safety and Oversight, FTA headquarters.

7. DRUG-FREE WORKPLACE. In accordance with the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 *et seq.*), and 49 CFR part 32, each recipient is required to maintain a drug-free workplace for all employees and to have an antidrug policy and awareness program. The recipient must agree that it will provide a drug-free workplace and comply with all requirements of 49 CFR part 32. These provisions apply only to FTA's recipients and do not extend to subrecipients.

The recipient is required to provide a written drug-free workplace policy statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and stating specific actions that will be

taken for violations. The Department of Labor provides a drug-free workplace advisor to assist recipients in developing tailored policy statements at the following link: <http://www.dol.elaws/drugfree.htm>. The ongoing drug-free awareness program must inform employees about the dangers of drug abuse; about any available drug counseling, rehabilitation, and employee assistance programs; about penalties that may be imposed; and that employees are to be aware that the recipient operates a drug-free workplace.

An employee of an FTA recipient is required to report in writing any conviction for a violation of a criminal drug statute occurring in the workplace, and the recipient/employer is required to provide written notice to FTA within ten days of having received the notice. Within thirty days of receiving the notice of a conviction, the recipient/employer must have taken appropriate action against the employee or have required participation in a drug abuse assistance or rehabilitation program.

Technical assistance materials and training information to help recipients implement the drug-free workplace and drug and alcohol testing rules are available on FTA's website <http://www.fta.dot.gov> or by contacting FTA's Office of Safety and Oversight, FTA headquarters, 1200 New Jersey Ave. SE, Washington, DC 20590.

8. EMPLOYEE POLITICAL ACTIVITY. To the extent applicable, the recipient agrees to comply with the provisions of the Hatch Act, 5 U.S.C. 1501–1508 and 7324–7326, and U.S. Office of Personnel Management regulations, “Political Activity of State or Local Officers or Employees,” 5 CFR part 151. The Hatch Act limits the political activities of state and local agencies and their officers and employees, whose principal employment activities are financed in whole or part with federal funds including a federal grant, cooperative agreement, or loan. Nevertheless, in accordance with 49 U.S.C. 5323(1)(2) and 23 U.S.C. 142(g), the Hatch Act does not apply to a nonsupervisory employee of a public transportation system (or of other agencies or entities performing related functions) receiving FTA assistance to whom the Hatch Act would otherwise apply.
9. ENVIRONMENTAL REVIEWS. All projects seeking FTA financial assistance require compliance with NEPA implementing regulations (40 CFR 1500-1508), FHWA and FTA's Environmental Impact and Related Procedures (23 C.F.R. part 771), Efficient Environmental Reviews for Project (23 U.S.C. 139), and numerous other environmental laws, regulations, and orders such as Section 106 of the National Historic Preservation Act (36 CFR part 800), the Clean Water Act, and the Endangered Species Act. Project sponsors should consult with the FTA regional office early in project development to identify the appropriate class of action (categorical exclusion [CE], environmental assessment [EA], or environmental impact statement [EIS]) for the NEPA review and any other environmental requirements. Project sponsors should not move forward with any steps to develop the project that would preclude the fair consideration of alternatives (e.g., final design and construction) until FTA concludes the NEPA process by issuing a record of decision (ROD), finding of no significant impact (FONSI), or a CE. Property acquisition, other than for the linear right-of-way needed for the project (as determined in close consultation with FTA staff), should not take place until a ROD, FONSI, or CE is issued.

10. ENVIRONMENTAL JUSTICE. Executive order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, requires the U.S. DOT and FTA to make environmental justice (EJ) part of our mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of our programs, policies, and activities on minority populations and/or low-income populations. Environmental justice at FTA includes incorporating environmental justice and nondiscrimination principles into transportation planning and decision-making processes as well as project-specific environmental reviews. FTA Circular 4703.1 “Environmental Justice Policy Guidance for Federal Transit Administration Recipients” provides FTA recipients and subrecipients with guidance and instructions necessary to carry out the executive order.

11. LABOR PROTECTIONS.

- a. Davis-Bacon Act. For FTA programs, 49 U.S.C. 5333(a) imposes Davis-Bacon Act prevailing wage requirements. This provision applies only to construction projects. In the event that a project involves construction, Section 5333(a) requires the secretary to ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of loans or grants under Chapter 53 be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the secretary of Labor and in accordance with the Davis-Bacon Act, as amended. The secretary may not approve any such loan or grant without first obtaining assurance that required labor standards would be maintained upon the construction work. This assurance is obtained when recipients accept grant funds and sign the master agreement.
- b. Transit Employee Protection. Before FTA may award a grant for capital or operating assistance, fair and equitable arrangements must be made to protect the interests of transit employees affected by the proposed FTA assistance (49 U.S.C. 5333(b), formerly Section 13(c) of the Federal Transit Act as amended). Those arrangements must be certified by the secretary of Labor as meeting the requirements of the law.

Questions concerning employee protective arrangements and related matters pertaining to transit employees should be addressed to the Division of Statutory Programs, Employment Standards Administration, U.S. Department of Labor, Room N-1519, 200 Constitution Avenue NW, Washington, DC 20210; telephone, 202-693-1193; fax, 202-693-1344.

12. LEASE VS. BUY CONSIDERATIONS. A recipient may use capital funds to lease capital assets from another party in cases where it determines that leasing would be more cost effective than either purchasing or constructing the asset. Recipients with preaward authority must conduct the cost comparison before entering into the lease. Recipients should refer to FTA regulations for further details on conducting the cost effectiveness comparison (49 CFR part 639).

When a recipient intends to enter into a lease of considerable duration (rather than paying for the lease in a lump sum at the beginning of the lease period), the recipient must be able to

complete the acquisition with local funds in the event FTA funds are not available in later years. Generally, it is not considered cost effective to lease real estate.

When a recipient receives a congressional earmark for a project and proposes to enter into a capital lease for some element of the project, the recipient must submit the cost comparison for FTA approval as part of the grant application.

13. PREAWARD AUTHORITY.

- a. General. FTA provides blanket, or automatic preaward authority in certain program areas. This preaward authority allows recipients to incur certain project costs before grant approval and retain their eligibility for subsequent reimbursement after grant approval. The recipient assumes all risk and is responsible for ensuring that all conditions are met to retain eligibility. This automatic preaward spending authority permits a recipient to incur costs on an eligible transit capital or planning project without prejudice to possible future federal participation in the cost of the project or projects.

The authorization of formula funds or appropriation of funds for discretionary projects and publication of those projects in FTA's annual *Federal Register* Notice of Apportionments and Allocations triggers preaward authority for design and environmental work on the project. Following authorization of formula funds or appropriation and publication of discretionary projects, preaward authority for other capital projects including property acquisition, demolition, construction, and acquisition of vehicles, equipment, or construction materials is triggered by completion of the environmental review process with FTA's signing of an environmental record of decision (ROD), finding of no significant impact (FONSI), or a determination that the project is a categorized exclusion, and included in the state transportation improvement program (STIP). Recipients may incur costs under preaward authority for projects that clearly meet the criteria for a CE; however, if a project is subsequently found not to qualify as a CE, it will be ineligible for FTA assistance. If an applicant is concerned that a project may not clearly qualify as a CE, the applicant is strongly encouraged to contact FTA's regional office for assistance in determining the appropriate environmental review process and level of documentation necessary.

FTA strongly encourages all recipients to consult with the appropriate FTA regional office regarding the eligibility of the project for future FTA funds and the applicability of the conditions and federal requirements.

Preaward authority for operating and planning projects under the formula grant programs is not limited to the authorization period.

- b. Conditions. In general, all federal grant requirements must be met at the appropriate time for the project to remain eligible for Federal funding. Specifically:
 - (1) Preaward authority is not a legal or implied commitment that the project(s) will be approved for FTA assistance or that FTA will obligate federal funds. Furthermore, it is not a legal or implied commitment that all items undertaken by the applicant will be eligible for inclusion in the project(s).

- (2) All FTA statutory, procedural, and contractual requirements must be met.
 - (3) The recipient must take no action that prejudices the legal and administrative findings that the federal transit administrator must make in order to approve a project.
 - (4) Local funds expended by the recipient pursuant to and after the date of the preaward authority will be eligible for credit toward local match or reimbursement if FTA later makes a grant for the project(s) or project amendment(s). Local funds expended by the recipient before the date of the preaward authority will not be eligible for credit toward local match or reimbursement. Furthermore, the expenditure of local funds on activities such as land acquisition, demolition, or construction before the date of preaward authority for those activities (i.e., the completion of the NEPA process) would compromise FTA's ability to comply with federal environmental laws and may render the project ineligible for FTA funding.
 - (5) The federal amount of any future FTA assistance awarded to the recipient for the project will be determined on the basis of the overall scope of activities and the prevailing statutory provisions with respect to the federal/local match ratio at the time the funds are obligated.
 - (6) For funds to which the preaward authority applies, the authority expires with the lapsing of the fiscal year funds.
 - (7) When a grant for the project is subsequently awarded, the federal financial report in FTA's electronic award management system, must indicate the use of preaward authority.
14. PRIVATE SECTOR PARTICIPATION. Federal law requires the public to be involved in the transportation planning process, and specifically requires that private providers be provided an opportunity to be consulted in developing transportation plans and programs in both urbanized and rural areas. Public involvement processes must be proactive and provide complete information, timely public notice, full public access to key decisions, and opportunities for early and continuing involvement throughout the transportation planning and programming process.
15. PROCUREMENT RESTRICTIONS. An applicant seeking federal assistance under the federal transit laws as codified at 49 U.S.C. 5301 *et seq.* to acquire property or services in support of a proposed project is subject to numerous provisions of law pertaining to third party procurement requirements. FTA's procurement requirements are codified in 49 U.S.C. 5325. In addition, regulations promulgated at 49 CFR part 18 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments) establish uniform administrative rules for federal grants, cooperative agreements, and subawards to state, local, and Indian tribal governments (private, nonprofit organizations must comply with similar regulations in 49 CFR part 19). Provisions of the common grant rule pertaining to procurement requirements for FTA recipients that are governmental authorities are set forth at 49 CFR 18.36. Those requirements, as well as other FTA specific provisions, are also set forth in FTA's master agreement FTA MA(20) October 1, 2013, at

Section 17, “Procurement,” and are updated annually with issuance of each new master agreement. Finally, FTA has published additional guidance on recipient compliance with third party procurement requirements within the most current FTA Circular 4220 and its “Best Practices Procurement Manual.” These regulations and guidance are intended to ensure full and open competition and equitable treatment of all potential sources in the procurement process including planning, solicitation, award, administration, and documentation of all federally funded contracts.

Each recipient of FTA assistance to acquire property or services in support of its proposed project shall certify to FTA, in accordance with 49 CFR 18.36 that its procurements and procurement system will comply with all applicable third party procurement provisions of federal laws, regulations, and directives, except to the extent FTA has expressly approved otherwise in writing. Any applicant that fails to provide this certification may be determined ineligible for award of federal assistance if FTA determines that its procurement practices and procurement system are incapable of compliance with federal laws, regulations, and directives governing procurements financed with FTA assistance.

16. **REAL PROPERTY ACQUISITION AND RELOCATION ASSISTANCE.** If an applicant intends to use federal financial assistance in a project which will require the acquisition of real property, the applicant must provide assurances—required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act)—that it will comply with the Uniform Act and with DOT implementing regulations (49 CFR part 24) and FTA Circular 5010.1D.

The “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs” regulations, at 49 CFR part 24, are DOT-wide regulations that apply to all federal or federally assisted activities that involve the acquisition of real property or the displacement of people. As such, the regulation is specific in naming certain actions that must be taken to achieve uniformity in the treatment of property owners and displaced persons. Recipients in the process of planning a federally assisted project that will require the displacement of persons should be aware of the regulatory need for relocation planning during the early stages of project development.

Title 49 CFR part 24 is available from the Government Printing Office website at: http://www.access.gpo.gov/nara/cfr/waisidx_99/49cfr24_99.html or on FHWA’s website at: <http://www.fhwa.dot.gov/realestate/49cfr.htm>. Also, recipients should be aware of state laws regarding compensation for real property and requirements for relocation of people and personal property.

Real property may be contributed as part of the local matching share. Credit can be allowed only for that portion of the property needed to carry out the scope of the project. Federal funds must not have been used to purchase any property proposed as local matching share. The contributed in-kind property must be appraised at its current market value and when incorporated into the project will be subject to the same reporting and disposition requirements required of all project property. The appraisal, including a review appraisal, must be in compliance with 49 CFR part 24 and Circular 5010.1D.

17. RESTRICTIONS ON LOBBYING. Federal financial assistance may not be used to influence any member of Congress or an officer or employee of any agency in connection with the making of any federal contract, grant, or cooperative agreement. The state, subrecipients, and third party contractors at any tier awarded FTA assistance exceeding \$100,000 must complete and submit standard form SF-LLL, sign a certification so stating and must disclose the expenditure of nonfederal funds for such purposes (49 CFR part 20).

Other federal laws also govern lobbying activities. For example, federal funds may not be used for lobbying congressional representatives or senators indirectly, such as by contributing to a lobbying organization or funding a grass-roots campaign to influence legislation (31 U.S.C. 1352). These laws do not prohibit general advocacy for transit. Providing information to legislators about the services a recipient provides in the community is not prohibited, nor is using nonfederal funds for lobbying, so long as the required disclosures are made.

18. SAFETY AND SECURITY. Title 49 U.S.C. 5329 provides FTA with the authority to establish a new comprehensive framework to oversee the safety of public transportation throughout the United States. The law requires, among other things, that FTA issue a national public transportation safety plan, establish safety performance criteria for all modes of public transportation, define a “state of good repair,” establish minimum safety performance standards for public transportation vehicles, and develop a safety certification training program. States with rail fixed guideway systems are required to strengthen their state safety oversight (SSO) programs and submit them to FTA for certification. In addition, public transportation agencies must establish comprehensive agency safety plans for their rail and bus operations. FTA will be issuing regulations and interim guidance to implement these new requirements in consultation with public transportation industry stakeholders.

Note: FTA has entered into a memorandum of understanding (MOU) with the American Association of State Highway and Transportation Officials (AASHTO), the American Public Transportation Association (APTA), and the Community Transportation Association of America (CTAA) that supports the transit industry and federal commitment to bus safety, and supports a model bus safety program to which all the signatories of this agreement have agreed to subscribe. The program also focuses on addressing the needs of rural and small urban providers.

19. SCHOOL BUS TRANSPORTATION. Title 49 U.S.C. 5323(f) prohibits the use of FTA funds for exclusive school bus transportation for school students and school personnel. The implementing regulation (49 CFR part 605) does permit regular service to be modified to accommodate school students along with the general public (“tripper service”). For the purpose of FTA’s school bus regulation, Head Start is considered a social service, not a school program. Rules for the Head Start Program limit the types of vehicles which may be used to transport children participating in a Head Start Program. FTA recipients may operate multifunctional school activity vehicles that meet the safety requirements for school transportation, but may not provide exclusive school service.

20. TRANSIT ASSET MANAGEMENT REQUIREMENTS. Under MAP-21, FTA is required to establish regulations for public transportation operators regarding transit asset

management practices and procedures. The intent of the statute is to promote coordinated capital investments aimed at bringing transit systems into and maintaining a state of good repair. FTA will publish a rule in the future on transit asset management.

APPENDIX A

INSTRUCTIONS FOR PREPARING A GRANT APPLICATION TO FTA

1. PREAPPLICATION STAGE.

- a. System Access. Applications for FTA grant program funds must be submitted electronically through the FTA electronic award management system. Applicants must have access to FTA's FTA electronic award management system in order to enter a grant. If an applicant does not have access to the system, the applicant's representative should contact the appropriate FTA regional office for assistance. Contact information for FTA's regional offices can be found in Appendix I.
- b. Planning Before grant application submission, project planning requirements should be complete and properly documented. Project activities to be funded should be included in a federally approved statewide transportation improvement program (STIP) for capital and/or operating projects or a unified planning work program (UPWP) for planning projects. In addition, although not statutorily required, FTA encourages recipients to include Section 5311 projects in a locally developed, coordinated public-transit, human services transportation plan.
- c. Environmental Determination. The impact that a proposed FTA-assisted project will have on the environment must be evaluated and documented in accordance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), before grant approval.
- d. Annual Submission of Certifications and Assurances. An applicant applying for assistance under the rural formula program, or any other FTA grant program, must annually submit certifications and assurances that are applicable to the applicant's active and new grants during the fiscal year. The certifications and assurances were discussed in Chapter IV, "Program Development." The certifications and assurances should be examined annually for changes and additions.
- e. Civil Rights Submissions. Civil rights submissions that may be required include a Title VI Plan, Equal Employment Opportunity (EEO) Program, Disadvantaged Business Enterprise (DBE) Program, and Americans with Disabilities Act (ADA) Paratransit Plan. FTA's regional civil rights officer must verify that all required civil rights submissions are current at the time that the grant application is entered into FTA electronic award management system. The required documentation must be submitted before the official submission of the grant. An applicant should maintain readily available records of FTA approvals of civil rights submissions in the event a question concerning compliance should arise. (See Chapter X, Other Provisions.)
- f. Flexible Funding Documentation (If Applicable). An applicant seeking the use of flexible funds for its program, or a portion of it, must first make sure that the funds are available locally, in accordance with the specific project selection process for the local area. Once

this resource of funds is included in the transportation improvement program (TIP), and incorporated into the STIP, the applicant informs the state transportation agency that a grant application is in development to FTA for the use of flexible funds and requests that the state inform the Federal Highway Administration (FHWA) of the need to transfer the funds to FTA for obligation (in some states, in practice, the metropolitan planning organization [MPO] or FTA notifies the state transportation agency). Once the state highway/transportation agency determines that the state has sufficient obligation authority, the state agency notifies FHWA that the agency will use the funds for public transportation purposes and requests that FHWA transfer funds for the project to FTA. Information showing that these processes are under way should be included in the grant application. The applicant should also include the type of flexible funds, the amount, the purpose for which the funds will be used, and where they appear in the STIP. (See Appendix E, "Procedures Related to Flexible Funding.")

2. APPLICATION SUBMISSION (FTA ELECTRONIC AWARD MANAGEMENT SYSTEM INFORMATION). Applicants should submit their grant applications electronically in FTA's electronic award management system database accessible via the Internet. The user guide, available on the homepage of the electronic award management system provides detailed information on how to access and use FTA's system. The user guide covers the creation, submission, award, and execution of a grant application; reporting requirements; grant amendments; budget revisions; and closeout procedures are also addressed. Applicants should enter the following information into the system when preparing an application:

- a. Recipient Information. Applicants should enter or update all required information about their organization in the appropriate fields in FTA electronic award management system, including recipient address, contact information, union information, urbanized area identification number (UZA), congressional district(s), Data Universal Numbering System (DUNS) Number, etc. The information must be current and accurate for each grant and periodically updated as changes occur.

Any organization applying for a grant or cooperative agreement from the federal government must have a DUNS number. This is a nine-digit identification number that provides a unique identification for single business entities. Applicants that currently do not have a DUNS number can obtain one for free from Dun and Bradstreet (www.dnb.com). It takes about five weeks to receive a DUNS number after the information is requested. As soon as the DUNS number is received, the applicant must inform the appropriate FTA regional office and update the recipient profile to include the number.

- b. Project Information. Certain basic information is required on the Federal Grant Application Standard Form 424 which has been incorporated into the project setup fields. Applicants must identify:

- (1) Whether the application is a new grant, a grant amendment or a budget revision;
- (2) The project start/end date;

- (3) The program date,
 - (4) Executive order 12372, Intergovernmental Review of Federal Programs, review date if applicable (additional information regarding EO 12372 can be found at <http://www.whitehouse.gov>); and
 - (5) The metropolitan planning organization (MPO) concurrence date (if applicable).
- c. Project Description. This information must be in sufficient detail for FTA to obtain a general understanding of the nature and purpose of the planned activities. The program of projects (POP) should be attached or included in this section. At a minimum, the project description should identify subrecipients funded through the grant application and the projects being implemented by each subrecipient. There is a project description field as well as a specific text field for this information associated with each activity line item. Project activities shall be sufficiently described to assist the reviewer in determining eligibility under the program. FTA suggests that maps or diagrams be included for all projects involving construction to expedite review of their project.
 - d. Information to Support Engineering/Technical Review. For projects involving construction or rehabilitation work, FTA reviews the information provided with the grant application, along with any pertinent documents that may be on record, to make a determination on such things as reasonableness of cost, sufficiency of preliminary engineering (PE) and design work completed, and eligibility of force account costs. For this reason, an applicant needs to include enough detail in the descriptive information about these projects to allow a positive determination during the project review period. For facility construction projects, the applicant should indicate the level of engineering work completed, and include the results of that work (i.e., appropriate drawings and cost estimates). FTA needs site selection studies and any pertinent information or documentation concerning environmental work performed for projects involving land acquisition and construction. For more information on the documentation requirements for these types of projects, the applicant should contact the appropriate regional office.
 - e. Program Date and Page of Statewide Transportation Improvement Program (STIP) or Unified Planning Work Program (UPWP). All projects using capital or operating funds in the grant application must be included in the current STIP. The STIP is jointly approved by FTA and FHWA. FTA funds cannot be obligated unless the STIP is approved by FTA. The application should note the page(s) (or other location reference) in the most recently approved STIP on which the project(s) contained in the application is listed. The FTA electronic award management system has a field designated "program date" where the date of the most recent FTA/FHWA STIP approval should be entered. If the grant includes planning activities, the UPWP date should be entered here, if possible, or in the project details section.
 - f. Budget. The appropriate scopes and alternative line items (ALI) should be used when developing the project budget. All sources of funds shall be identified and confirmed. All rolling stock procurements shall include vehicle description and fuel type; expansion activities shall include discussion on vehicle needs. The project budget should reflect the

precise activities for which the grant funds will be used, and the budget should be prepared in accordance with requirements for specific funding programs. If the grant contains funding for tribal governments, the non-add scope 992-00 should also be added to the budget and identify the amount of funding in the application allocated to each tribe. The non-add scope does not affect the total funds in the budget; it simply allows FTA to query the funding amounts upon request. Other non-add scopes are used for Intelligent Transportation Systems (ITS), security funds, and other special emphasis areas.

- g. Project Milestones. Every ALI in a grant budget must have associated project milestones. The FTA electronic award management system will autopopulate milestones for some ALIs; for example, rolling stock purchases will have five associated milestones. If it does not prepopulate specific milestones for a particular ALI, use the add function to add a minimum two milestones reflecting the estimated start and end dates for that ALI to the grant application. Recipients should include estimated milestone dates for such events as bid advertisement, bid award, and contract completion.
- h. Environmental Findings. The application should include a proposed classification of each ALI in accordance with FHWA/FTA Environmental Impact and Related Procedures. (See 23 CFR 771.115 and 771.118.) Applicants should refer to part 771.118(c) and (d) for a listing of the Class II (categorical exclusion) projects. Most projects under the Section 5311 program meet the criteria for a categorical exclusion (CE). The application should include sufficient information for FTA to determine whether a CE applies, such as a description of the project, as well as any maps or figures typically included with the application or as requested by the FTA regional office. However, if a project does not clearly meet the criteria for a CE, an applicant should contact FTA's regional office for assistance in determining the appropriate environmental review process and level of documentation necessary.

Under NEPA, FTA must assess the potential environmental impacts resulting from an FTA "action" (for FTA's purposes this generally means a stand-alone FTA-funded project that has independent utility and logical termini). However, a grant application generally includes several ALIs that could be organized to constitute one or more stand-alone actions. For applications containing more than one action, applicants should clearly identify the separate actions and their corresponding ALIs. It is important to keep in mind that not all ALIs are separate actions under NEPA, nor does one grant application necessarily contain only one action. For each action identified the applicant should include a proposed classification of each ALI in accordance with FHWA/FTA Environmental Impact and Related Procedures. (See 23 CFR 771.115 and 771.118.) Applicants should refer to part 23 CFR 771.118 (c) and or (d) for a listing of the Class II (categorical exclusion) projects; for actions requiring an EA or EIS, clearly indicate whether an EA or EIS is proposed.

- i. Fleet Status. Fleet status data are not required for Section 5311 grant applications.

- j. Application Submission. Once FTA deems the activities eligible, and determines that all preapplication requirements have been satisfied, FTA assigns a grant number. At this point, the grant is ready to be pinned (approved) and submitted in the system by the designated recipient/recipient.
- k. Certification of Labor Protective Arrangements. Section 5311 grants are covered by a special warranty and are not submitted for certification to the Department of Labor (DOL). Currently states are required to submit a letter to DOL regarding subrecipient signing of the warrantee and labor union information.
- l. Grant Approval. Once FTA staff determines through a final review of the application that FTA program requirements have been met, FTA awards and obligates funds requested in the grant.
- m. Congressional Notification Process. FTA must notify Congress not less than three full business days before awarding discretionary grants over \$1 million. Subsequent appropriations acts should be reviewed for changes to this mandate. In addition, FTA provides congressional representatives with courtesy notification for all grants that contain earmarked funds.
- n. Grant Execution. After FTA has approved and awarded the grant, the applicant shall execute the award before funds can be drawn down from the grant. Grants that include preaward activity require the submission of a financial status report before grant execution.

3. GRANT APPLICATION REVIEW CHECKLIST

Date: _____ Recipient #: _____

1. APPLICATION CHECKLIST.

Applicants should use the following checklist in preparing a complete application:

Section 5311 APPLICATION CHECKLIST	
Part I—Recipient Information	
	Are annual certifications and assurances selected and pinned/signed by the authorized official and attorney?
	Is the recipient contact, designated signatory, opinion of counsel, authorizing resolution, and other information complete?
	Is UZA/congressional district information entered and accurate?
	Is union contact information entered and accurate?
	Has civil rights program documentation been approved by FTA?
	Has the applicants DUNS number been entered in the appropriate field?
Part II—Project Information	
	Does the project description include adequate detailed information of the project(s) such as an appropriate project title?
	Is information on any subrecipient(s) and their projects included?
	Is this a new application or grant amendment?
	Does the application include an appropriate start/end date?
	If a supplemental agreement is applicable, has “yes” been selected?
	Are activities and program dates consistent with STIP dates and the UPWP if planning activities are included?
	Are STIP/UPWP approval dates and page numbers or location identifiers included in the application?
	If preaward authority is applicable, has “yes” been selected?
	If federal debt delinquency is applicable, has “yes” been selected? (If yes, applicant must explain in details section.)
	Has the EO 12372 review been completed, if applicable?
	Is sufficient information included to evaluate project specific compliance with ADA, Title VI, and DBE requirements?
	Is UZA/congressional district information entered and accurate?
Part III—Budget	
	Are ALI codes entered under the appropriate scope codes and consistent with project descriptions?
	Are funding percentages and match ratios acceptable?
	Does the funding amount entered in the budget match financial information entered in the “Project Information” field for:
	a. Federal funds
	b. Local match
	Does the rolling stock (vehicle) line item contain accurate information such as:
	a. Description
	b. Fuel type
	Has descriptive information been added in the details section of each ALI that identifies the items being funded using the line item? If appropriate and necessary.
	Will the applicant expend 1 percent of the Section 5307 funds in this application for security purposes? (If yes, list security-related projects in the project budget and summarize them in the non-add scopes. If no, select the reason.)
	If applicable, has the applicant expended 1 percent of Section 5307 funds for associated transit improvements in areas over 200,000 in population?
	Where applicable, have non-add scopes been added showing the funds allocated to intelligent transportation systems, security funds, tribal governments, or other special areas of emphasis?
Part IV—Project Milestones	
	Are a minimum of two milestones listed for each ALI or scope? (If an ALI does not have standard milestones, they may be added.)
	Have estimated completion dates been entered?
Part V—Environmental Findings (NEPA)	
	Has an environmental finding been entered for each ALI or scope?

	For categorical exclusion II (d), EA, and EIS, has decision documentation been referenced or attached?
Part VI—Fleet Status	
	Has information pertaining to current and future revenue vehicles been entered?
	If applicable, are vehicles entered in the table consistent with the budget?
	If applicable, is the spare ratio 20 percent or less?

Project #: _____ Final: _____

4. ECHO INFORMATION.

- a. Office of Management and Budget (OMB) Circulars A-102, A-110, and 31 CFR part 205 govern payment to recipients for financing operations under federal grant and other programs. These regulations require that payment to a recipient be limited to the minimum amounts needed and timed so as to be in accord only with the actual, immediate cash requirements of the recipient in carrying out the approved project. For further information regarding cash management procedures, refer to the FTA "ECHO System User's Manual for Recipients": <https://ftaecho.fta.dot.gov/echologin.asp>.

ECHO Control Number
(ECN) _____

(For initial ECHO setup agency will assign ECN Number, for non ECHO payments enter "N/A")

Initial Setup

Info. Change

Recipient Information Change

Information from this form is required under the provision of 31 U.S.C. 3322 and 31 CFR 210. Treasury uses this to transmit payment data by electronic means to a company's or a recipient's financial institution. Failure to provide the requested information may delay or prevent the receipt of payments through the Treasury ACH payment system.

Note: See the bottom for instructions on completing this form.

RECIPIENT INFORMATION	
NAME:	
ADDRESS:	
CITY/STATE/ZIP:	TELEPHONE NUMBER: ()
CONTACT PERSON NAME:	
SIGNATURE OF AUTHORIZED OFFICIAL IN FTA	TELEFAX NUMBER: ()
DATE: //	
AGENCY INFORMATION	
NAME: <i>Federal Transit Administration</i>	
ADDRESS: <i>1200 New Jersey Avenue, SE Washington, DC 20590</i>	
CONTACT PERSON NAME:	<i>202-366-9748</i>
FINANCIAL INSTITUTION INFORMATION	

(Note: Have Your Bank Complete This Section)		
NAME:		
ADDRESS:		
CITY/STATE/ZIP:		
CONTACT PERSON NAME:	TELEPHONE NUMBER: ()	
NINE DIGIT ROUTING TRANSIT NUMBER: _ _ _ _ _		
DEPOSITOR ACCOUNT TITLE:		
DEPOSITORS ACCOUNT NUMBER:		
TYPE OF ACCOUNT: CHECKING SAVING		
SIGNATURE AND TITLE OF REPRESENTATIVE:	DATE: //	FAX NUMBER: ()

b. Instructions for Completing Form.

(1) Fill in your ECHO control number. If this is an **Initial ECHO Setup**, agency will assign ECHO control number.

(2) Check appropriate box(es):

(a) Initial Setup.

(b) Change in Bank Information.

(c) Change in Recipient Information.

(3) Fill out information in the appropriate section(s) listed below:

c. Recipient Information Section. Print or type the name of the recipient and address that will receive ECHO/ACH payments. Also include a contact person's name, date, and telephone and telefax numbers.

d. Financial Institution Information Section. Have your bank fill out this section. They should print or type the name and address of the financial institution who will receive the ECHO/ACH payment. Also included are the ACH coordinator's name, telephone number, nine-digit routing transit number (ABA #), depositor (recipient) account title, depositor (recipient) account number, type of account (type can **ONLY** be designated as **Checking** or **Saving**), and signature and title of representative, date, and telefax number.

- e. Mail the form to the name and address shown in the **Agency Information Section**. This section also includes a contact person's name and telephone number.

- f. If there are any questions, please call **202-366-9748** and ask for the agency's ACH contact.

SUBTOTAL – Operating	_____	_____
SUBTOTAL – Capital	_____	_____
SUBTOTAL – Planning	_____	_____
SUBTOTAL – Job Access and Reverse Commute	_____	_____
SUBTOTAL – PROJ. ADMIN	_____	_____

INTERCITY BUS PROJECTS [Section 5311(f)]

Subrecipient Name	Subrecipient Type	Category A or B	Project Description	Counties Served	Net Project Cost	Federal Share
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
SUBTOTAL – Intercity Bus Capital					_____	_____
SUBTOTAL – Intercity Bus Operating					_____	_____
SUBTOTAL – Intercity Bus Administration					_____	_____
SUBTOTAL – INTERCITY BUS					_____	_____

STATE ADMINISTRATION, PLANNING, AND TECHNICAL ASSISTANCE
 [Section 5311(e)]

(Not to exceed 10 percent of Section 5311 apportionment and any flex funds transferred to the Section 5311 account may be used to provide a 100 percent federal share. Section 5307 funds transferred to the Section 5311 account may be used to provide 80 percent federal share for planning projects without regard to the 10 percent cap.)

	Net Project Cost	Federal Share
SUBTOTAL – State Administration (projects funded at 100 percent)	_____	_____

RURAL TRANSPORTATION ASSISTANCE PROGRAM (RTAP) [Section 5311(b)(3)]

	Net Project Cost	Federal Share
SUBTOTAL – RTAP Training	_____	_____

FTA C 9040.1G
DATE 10/24/2014

Appendix B
Page B-3 of 3

SUBTOTAL – RTAP Technical Assistance
SUBTOTAL – RTAP Transit Research
SUBTOTAL – RTAP Support Services
SUBTOTAL – RTAP Reserve
SUBTOTAL – RTAP

APPENDIX C

BUDGET INFORMATION

1. **INTRODUCTION.** This Appendix provides information about the items that appear on an approved project budget and provides instruction for preparing a project budget. A Federal Transit Administration (FTA) grant obligates a recipient to undertake and complete activities defined by the purpose or purposes of a grant and the budget incorporated into the grant agreement. A grant budget is the approved financial plan that FTA and the recipient agree the recipient will follow in carrying out the purposes of the grant.

The recipient will use the FTA electronic award management system to prepare project budgets. The user's guide provides detailed instructions on how to create a project budget within the FTA electronic award management system.

Within a grant, groups of activities often relate logically to each other; a group of related activities is called a project. Several projects form an overall program. A recipient may apply for a program of projects (POP) in a single grant. The project budget is designed to group activities for a single project or a POP within scopes. A scope includes related activities that have the same broad purpose. A grant program and budget may have several scopes.

2. **DEVELOPING THE BUDGET.** FTA uses a scope code to establish the purpose of a group of activities. FTA derives the numbering of both the scope and activity levels of information on the approved project budget from the activity codes in the FTA electronic award management system. To find the link to the current scope level codes and activity line items (ALIs), see the main menu of the FTA electronic award management system

Use the chart of ALI codes to prepare a consolidated budget for the entire program of projects. Group related line items under appropriate scope codes. The scope is usually identified by the first three digits of the ALI followed by a two digit sequence number. A few exceptions for the 5311 program are noted below. The same scope may be used more than once in a complex budget. If so, the repeated scope is numbered sequentially. The state may enter the project and recipient descriptions from the program of projects as extended text associated with the scopes.

For each ALI, enter the net project cost and the federal share. The FTA electronic award management system generates standard descriptions for each ALI code, but the text may be overridden to enter more specific descriptions that are consistent with the standard description.

3. **CAPITAL.** Use of the correct ALI codes identifies all vehicles as replacement or expansion, and indicates the size and type of vehicle or equipment. Enter a quantity for each vehicle ALI. For example, if there are ten subrecipients in the program of projects and each will receive three replacement vans and one will get a mid-sized bus for new service, the scope 111 (Bus, revenue rolling stock) would include two ALI codes: 11.12.15, quantity thirty, and 11.13.03, quantity one. The individual recipients and types of service provided could be

identified in extended text. Through the system, the FTA is able to use this information to generate detailed reports electronically on the use of program funds. When recipients use the higher federal match for equipment purchased to meet clean air or ADA accessibility requirements, a special non-add scope must be used for tracking, in addition to the usual coding. Use as many capital scopes and activity codes as necessary to aggregate capital projects from the program of projects. Capital projects in support of intercity bus transportation should not be included here, but rather under scope 634.

4. OPERATING. The ALI for operating assistance for all FTA programs is 30.09.XX. The grant project number is sufficient to identify the program as Section 5311. Operating assistance may be shown either under scope 300 or grouped with other miscellaneous items in scope 600.
 - a. For intercity bus operating assistance, the ALI should be shown under scope 634-00.
 - b. For job access and reverse commute operating assistance the ALI is as follows and should be shown under scope 646-00:
 - 30.09.05 Job access and reverse commute operating assistance
 - c. The last two digits 30.09.XX (operating assistance) indicates different match ratios available:
 - 30.09.01 Up to 50 percent federal share
 - 30.09.02 Sliding scale (5311 or 5310)
 - 30.09.03 80 percent CMAQ
5. OTHER PROGRAM COSTS. The scope 600 may include the ALIs for all other program costs, such as state or program administration (11.80.00) and project administration (11.79.00). This creates a shorter printed project budget. Quantities are not used for these line items.
 - a. Alternately, these activities may also be listed under separate scopes in the 600 series:
 - 610-00 – State administration
 - 620-00 – Project administration

It may be preferable to use the separate scopes if only one of these activities is included in the grant, or to list individual subrecipients for project administration.
 - b. Show both net cost and federal share for each ALI. The maximum federal share for project administration is 80 percent. The 10 percent of the apportionment or transferred flex funds allowed for state administration, planning, and technical assistance may be funded at 100 percent federal share.

c. For fiscal year 2012 funds and earlier, specific codes must be used for Section 5310, Job Access and Reverse Commute (JARC), and New Freedom projects included in a Section 5311 grant after funds for selected projects have been transferred to the rural formula grants for rural areas program. These codes are additive, not non-add. Include all activities for the transferred funds under the relevant scope code in the main part of the project budget. The following scope should be used.

- 641-00 Section 5310
- 646-00 JARC (should also be used for job access and reverse commute projects in 5311)
- 647-00 New Freedom

6. INTERCITY BUS [Section 5311(f)]. All projects used to fulfill the statutory requirement to spend 15 percent of the apportionment in support of intercity bus service must be included in scope 634. Any of the ALI codes may be used under this scope, even if they have been used elsewhere in the budget for other rural transit projects. However, the same project should not be double-counted. For example, if a single subrecipient receives capital and/or operating assistance for local rural transit services and also for service meeting the criteria for Section 5311(f), the costs would be separated out and only the intercity bus portion reported under scope 634 with the other project costs shown under other appropriate scopes.

The activity codes for intercity bus projects are the same as those used elsewhere. Eligible activities also include planning and marketing, in addition to capital and operating. Inclusion under scope 634 identifies these activities as intercity projects and enables FTA to track and report on intercity bus obligations. The following ALIs should be used under the fifth and sixth digit for station stops/terminals:

- .03 Terminal, Intermodal (transit)
- .11 Terminal, Intermodal (Intercity bus)
- .12 Terminal, Intermodal (Intercity rail)

7. PLANNING. Planning is now eligible under the Section 5311 program. Funds programmed for planning should be documented in the state's UPWP. The new scope code is:

- 441.00

ALI codes should also be used in the project budget when funds transferred from Section 5307 are being used for planning outside the state administration cap or if the planning or marketing activity is for intercity bus and is included in scope 634. The FPC 09 is used when obligating funds for planning permitted outside the state administration limitation. All other planning is subject to the 10 percent limitation on state administration and must be included in the ALI for state administration (11.80.00) and included in the funds obligated using FPC 06.

8. RURAL TRANSPORTATION ASSISTANCE PROGRAM (RTAP). The scope code for RTAP is 635. This code, which departs from the usual numbering scheme, was chosen so that RTAP would appear at the bottom of the printed budget used at the time, since it is funded from a separate allocation. There are five ALI codes for RTAP, which reflect the eligible assistance categories:

- 43.50.01 – Training
- 43.50.02 – Technical assistance
- 43.50.03 – Research
- 43.50.04 – Support services
- 43.50.05 – Program reserve (not to exceed 10 percent of RTAP allocation)

More specific project descriptions should be included either in the extended description at the grant level (i.e., the program of projects) or in the extended description fields for the RTAP ALIs.

9. FORMULA AND DISCRETIONARY GRANTS FOR PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS PROGRAM. Grants for public transportation on Indian reservations are required to use the non-add code 992 for Tribal Transit Program projects.

A non-add code was added to enable FTA to track the funding for tribal transit under Section 5311 grants to states. Use this code to identify tribal projects under any program.

- 992.nn Tribal Projects

10. APPALACHIAN DEVELOPMENT PUBLIC TRANSPORTATION ASSISTANCE PROGRAM. A new scope code has been added under the new Appalachian Development Public Transportation Program.

- 648-00

11. NON-ADD SCOPES. FTA uses non-add scopes in the project budget to track the use of the enhanced federal share for vehicle related equipment and facilities required for Americans with Disabilities Act of 1990 (ADA) or Clean Air Act (CAA) compliance, for tribal projects, and for other special initiatives. Include under these non-add scopes the portions of ALIs used elsewhere in the project budget for these purposes. The amounts included in the non-add scopes are not computed in the budget totals.

12. ACCOUNTING CLASSIFICATION CODES. FTA uses accounting classification codes to indicate the source of funds in a grant. Each digit in the code has a specific meaning. For example, the accounting classification code 2013.25.18.81.2 provides the following information:

The accounting classification codes have the following structure and meaning:

- a. Positions 1–4: “Year”—indicates the year of appropriation or allocation of the funds.
- b. Positions 5–6: “Appropriations”—indicates which of the several large FTA accounts is being used to fund the grant (formula and bus grants, capital investment grants, research and university centers, or administrative). For example, “25” represents the formula and bus grants account funded entirely from the mass transit account of the Highway Trust Fund.
- c. Positions 7–8: “Section”—indicates the program under which the funds are being awarded. Many of the codes were established before the FTA Act was codified and refer to the former section numbers in the old statute (e.g., Section 5310 used to be Section 16). For the new programs, the new codes are related—to the extent possible—to the section number in the codified act. For example, “18” is used for the rural program.
- d. Positions 9–10: “Limitation”—allows FTA to track set-asides, transfers, limits, and special uses. The next two digits indicate the specific program source of the funds. The original Section 5311 apportionment is coded 81. Funds transferred from Section 5307 are U8 (unrestricted). Section 5311 funds transferred to Section 5307 are coded T9. Each flexible funding program has its own code, so FTA and the Federal Highway Administration (FHWA) can track the specific source of the funds.
- e. Position 11: Indicates whether funds are appropriated general funds (1) or contract authority (2). The funds from the mass transit account (“trust funds”) are coded (2) for contract authority.

13. FINANCIAL PURPOSE CODES. When the funds are obligated for a grant, FTA uses a financial purpose code (FPC) to indicate any broad statutory restrictions on the funds. All funds used for state administration within the 10 percent cap are obligated using FPC 06. The RTAP funds are obligated under FPC 07. Starting with fiscal year 2013 Section 5311 funds, all job access and reverse commute projects (capital, operating, and planning), use FPC 03. For Section 5311 only, everything else is obligated under FPC 09, the general purpose code. In other FTA grant programs, 00 is used for capital obligations, 04 for operating, and 02 for planning. Because the states have the flexibility to move funds around among projects within the program of projects, FTA maintains the maximum flexibility by aggregating the obligations as broadly as possible. However, FTA wants to know the amount of Section 5311 funds obligated and expended for job access and reverse commute projects, so FPC 03 must be used at both time of reservation and draw down for these projects. For other activities that use FPC 09, when the funds are actually expended and drawn down, the state indicates the use of the funds by substituting a number for the X in the project number in the draw down request. Operating (4), capital and project administration (0), and planning (2) all draw against the funds obligated using FPC 09. Program administration (6) draws against the funds obligated use FPC 06 and RTAP (7) draws against RTAP funds obligated using FPC 07.

SAMPLE APPROVED PROJECT BUDGET

RECIPIENT: ANYSTATE DEPARTMENT OF TRANSPORTATION

CAPITAL, ANYSTATE

PROJECT NO.: AN-18-X015-00 BUDGET NO.: 01

SCOPE	FEDERAL AMOUNT	TOTAL AMOUNT
111-00 BUS ROLLING STOCK		
QUANTITY 16.....	\$1,500,000	\$1,875,000
<u>ACTIVITY</u>		
11.12.01 PURCHASE REPLACEMENT		
<30 FT. BUSES WITH LIFTS		
QUANTITY 8	\$1,350,000	\$1,687,500
11.12.15 PURCHASE REPLACEMENT		
VANS WITH LIFTS		
QUANTITY 8	\$150,000	\$187,500
SCOPE		
300-00 OPERATING ASSISTANCE	\$1,750,000	\$3,500,000
<u>ACTIVITY</u>		
30.09.00 OPERATING ASSISTANCE	\$1,750,000	\$3,500,000
SCOPE		
610-00 STATE ADMINISTRATION	\$652,500	\$652,500
<u>ACTIVITY</u>		
11.80.00 STATE ADMINISTRATION	\$652,500	\$652,500
SCOPE		
600-00 OTHER PROGRAM COSTS	\$200,000	\$250,000
<u>ACTIVITY</u>		
11.79.00 PROJECT ADMINISTRATION	\$200,000	\$250,000
SCOPE		
634-00 INTERCITY BUS PROJECTS	\$652,500	\$1,005,000
<u>ACTIVITY</u>		
11.33.01 REMODEL INTERMODAL		
TERMINAL	\$400,000	\$500,000
30.09.00 OPERATING ASSISTANCE	\$252,500	\$505,000
SCOPE		
635-00 RURAL TRANSIT ASSISTANCE		
PROGRAM	\$150,000	\$150,000
<u>ACTIVITY</u>		
43.50.01 TRAINING	\$50,000	\$50,000
43.50.02 TECHNICAL ASSISTANCE	\$25,000	\$25,000
43.50.03 RESEARCH	\$50,000	\$50,000
43.50.04 SUPPORT SERVICES	\$25,000	\$25,000

646-00 Job Access and Reverse Commute Project	\$25,000	\$50,000
<u>ACTIVITY</u>		
30.09.05 OPERATING ASSISTANCE	\$25,000	\$50,000
 TOTAL.....	 \$4,525,000	 \$7,089,375
 ESTIMATED NET PROJECT COST	 \$7,089,375	
FEDERAL SHARE	\$4,525,000	
LOCAL SHARE	\$2,589,375	

OTHER (Scopes and Activities not included in Project Budget Totals)

SCOPE:

992.0 TRIBAL PROJECTS	\$50,000	\$62,500
<u>ACTIVITY:</u>		
11.12.15 PURCHASE VAN W/LIFT	\$50,000	\$62,500

SOURCES OF FEDERAL FINANCIAL ASSISTANCE

FUNDING UZA: 990000 FUNDING UZA NAME: ANYSTATE

<u>ACCOUNTING</u>	<u>PREVIOUSLY AMENDMENT</u>		
<u>CLASSIFICATION</u>	<u>FPC</u>	<u>FY</u>	<u>SEC</u>
		<u>APPROVED</u>	<u>AMOUNT</u>
			<u>TOTAL</u>
2013.25.18.81.2	09	2013	18
			\$4,125,000
2013.25.18.81.2	06	2013	18
			\$652,500
2013.25.18.R7.2	07	2013	18
			\$150,000
2013.25.18.81.2	03	2013	18
			\$25,000
		TOTAL	\$4,952,500
			\$4,952,500

APPENDIX D

PROCEDURES RELATED TO FLEXIBLE FUNDING

1. FLEXIBLE FUNDS. Flexible funding categories are those programs authorized under the Federal-Aid Highway Program that are permitted to be used for either transit or highway projects. The funds may be transferred to FTA for any nonoperating purpose, including preventive maintenance, eligible under FTA's Urbanized Area Formula Program (Section 5307), the Enhanced Mobility for Seniors and Individuals with Disabilities Program (Section 5310), and the Formula Grants for Rural Areas Program (Section 5311). The primary flexible fund programs are the Surface Transportation Program (STP) and the Congestion Mitigation and Air Quality (CMAQ) Improvement programs, although other Federal Highway Administration (FHWA) programs have some limited intermodal flexibility.
2. PROCEDURES. Funds may be used in an area of the state other than the area for which they were apportioned under certain circumstances. The following guidance refers only to the funds transferred to the Formula Grants for Rural Areas Program.
 - a. General. For those flexible funds transferred from FHWA to FTA for use in a rural area, the funds are placed in a state account under the Section 5311 program. Thereafter, the funding will be treated as Rural Area Formula Program funds although they retain a special identifying code. Flexible funds may not be combined with regular FTA formula funds in a single grant application, except that flexible funds transferred before fiscal year 2007 can be combined with Section 5311 funds in a single grant.
 - b. Funds Transferred to FTA. Funds available under the STP may be transferred to FTA and used for any capital purpose eligible under FTA's Section 5311 program. In addition, National Highway System (NHS) funds and portions of FHWA's interstate maintenance and bridge programs may be transferred to the STP and then made available to FTA for transit capital projects consistent with FTA requirements of the Section 5311 program. Finally, funds available under CMAQ may be used in ozone and carbon-monoxide "nonattainment" areas for any transportation project or program (including several transit activities eligible under Section 5311) which helps lead to the attainment of national ambient air quality standards.

Transit projects in rural areas (under fifty thousand population) that will be funded under any of these flexible programs must be identified in a statewide transportation improvement program (STIP). Inclusion in the STIP constitutes a state's commitment to funding programmed projects with the identified FHWA source.

Once a project is ready to be implemented, the FTA recipient submits a complete application to the appropriate FTA regional office according to the application instructions of Appendix A. At the same time, the recipient notifies the designated state highway/transportation agency that it has submitted an application to FTA that will require a transfer of FHWA funds to FTA. Once the state highway/transportation agency determines the state has sufficient obligation authority, the state agency notifies FHWA

that the funds will be used for transit purposes and requests that the budget authority be transferred to FTA.

Once FTA approves and obligates the grant, the recipient carries out the project following the guidance of most current version of the FTA Circular 5010.1, "Grant Management Guidelines" and this circular. FTA's regional office will administer the project as a Section 5311 project.

- c. Matching Share for Flexible Funds. The nonfederal share provisions of Title 23, U.S. Code apply to FHWA funds that are transferred for use in transit projects. Thus, flexible funds transferred to FTA require the same nonfederal matching share that such funds would have had if used for highway purposes and administered by FHWA.

An instance in which a higher than 80 percent federal share could be maintained is in states with large areas of Indian and certain public domain lands, and national forests, parks, and monuments, wherein the local share for highway projects is determined by a sliding scale rate, calculated on the basis of the percentage of public lands within that state. This sliding scale, which permits a greater federal share, but not to exceed 95 percent, is applicable to transit projects funded with flexible funds in these public land states. FHWA develops the sliding scale matching ratios for the increased federal share. This is the same as the sliding scale share under the Section 5311 program.

There is no need to transfer STP, CMAQ, and NHS funds that would be used for planning, since planning for both transit and highways is eligible under FHWA's formula programs.

APPENDIX E

SAMPLE INTERCITY BUS CERTIFICATION

(On official letterhead)

Month, Day, Year

Mr./Ms. (Name of FTA Administrator)
Administrator
Federal Transit Administration
1200 New Jersey Avenue SE
Washington, DC 20590

Dear FTA Administrator:

I hereby certify to the Secretary of the United States Department of Transportation that the intercity bus service needs of the state are being met adequately. Pursuant to 49 U.S.C. 5311(f)(2), the state accordingly does not intend to expend 15 percent of its fiscal year(s) Section 5311 apportionment(s) to carry out a program for the development and support of intercity bus transportation as would be required by federal law in the absence of this certification.

[The model letter constitutes a certification by the person signing the letter. Thus, if this letter is signed by anyone other than the governor, explain the authority under which this person signs the certification.]

The state has conducted an assessment of statewide intercity bus mobility needs between [fill in dates], which dates are no more than four years before the date of this certification. What follows is a description of the assessment process and findings: ...

Before this certification, as required by 49 U.S.C. 5311(f)(2), the state consulted with affected intercity bus operators. That consultation process contained the four elements required by the circular and involved the following activities: [description of activities and how they complied with required elements]:

Considering the state assessment and the results of the consultation process, the basis for the certification that there are no unmet intercity bus needs in the state is (explain in detail):

[Additional explanatory information may be added to determine the correlation between the results of the consultation and needs assessment and the decision to certify. For example, a description of the process used to assess whether unmet needs existed, the extent of any public participation in the decision, state financial support for intercity bus service, or the amount to be used in the case that intercity bus needs can be adequately met using less than the full 15 percent.]

Sincerely,

Jane Doe
Governor
cc: FTA Regional Administrator

APPENDIX F

CAPITAL COST OF CONTRACTING

Some FTA recipients turn to an outside source to obtain public transportation service, maintenance service, or vehicles that the recipient will use in public transportation service. When a recipient enters a contract for such service, FTA will provide assistance for the capital consumed in the course of the contract. In the case of a contractor's providing vehicles for public transportation service, the capital consumed is equivalent to the depreciation of the vehicles in use in the public transportation service during the contract period. In the case of a maintenance contract, the capital consumed may be, for example, depreciation of the maintenance garage, or depreciation of the machine that lifts the vehicle. Capital consumed may also include a proportionate share of the interest the contractor might pay out as the contractor purchases and makes available to the recipient these capital assets. FTA refers to the concept of assisting with capital consumed as the "capital cost of contracting."

Only the costs attributable to the privately owned assets are eligible under this policy. With one exception, items purchased with federal, state, or local government assistance are not eligible. The exception is a public transportation vehicle privately owned in which the recipient has invested FTA funds from the Over-the-Road Bus Accessibility Program to finance incremental capital costs of complying with ADA. Capital consumed for service or maintenance in the provision of service outside the public transportation portion of the contract, such as for charter or school bus service, is not an eligible cost.

In addition, FTA provides assistance for preventive maintenance, which is defined as all maintenance. In some instances, the recipient contracts with outside sources for both maintenance and public transportation service, and the contractor provides both maintenance and vehicles. In such cases, both FTA's capital cost of contracting and preventive maintenance standards will apply.

To avoid imposing burdensome accounting rules with regard to contracts for bus, paratransit, and demand-responsive related services, FTA will allow the recipient to consider a percentage of leased service or contracted maintenance capital costs without further justification and will provide assistance for 80 percent of the resultant amount. Appendix G, below, shows the percentages and the corresponding type of contract service for bus, paratransit, and demand-responsive related services. The percentages are calculations using data from the NTD. Presented by type of contract, the calculations represent industry averages in counting capital-eligible activities as a share of total cost. The percentages apply whether the service is local, express, shuttle, paratransit, or demand-responsive service.

**PERCENT OF CONTRACT ALLOWED FOR CAPITAL ASSISTANCE
WITHOUT FURTHER JUSTIFICATION***

Bus and Paratransit-Related Contract Services	Percent of Contract Eligible for 80 Percent Federal Share
Type of Contract	
1. Service Contract (contractor provides maintenance and transit service; recipient provides vehicles)	40 percent
2. Service Contract (contractor provides transit service only; recipient provides vehicles and maintenance)	0 percent
3. Vehicle Maintenance Contract (contractor provides maintenance; recipient provides vehicles and transit service)	100 percent
4. Vehicle Lease Contract (contractor provides vehicles; recipient provides maintenance and transit service)	100 percent
5. Maintenance/Lease Contract (contractor provides vehicles and maintenance; recipient provides transit service)	100 percent
6. Turnkey Contract (contractor provides vehicles, maintenance, and transit service)	50 percent
7. Vehicle/Service Contract (contractor provides vehicles and transit service; recipient provides maintenance)	10 percent

Some of the calculations above are based on the assumption that the contractor (or someone other than the recipient) provides the assets. For example, if a contractor provides maintenance, FTA assumes in the calculations that the contractor does so in a facility provided by the contractor. For another example, in a contractor-operated vanpool program that qualifies under a Turnkey Contract (see type 6), a vanpool driver may provide the service rather than a contractor employee, but since the recipient does not provide the service, these costs are treated as part of the contract.

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APPENDIX G

FTA REGIONAL AND METROPOLITAN CONTACT INFORMATION

<u>Office</u>	<u>Area Served</u>	<u>Contact Information</u>
Region I	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont	Transportation Systems Center Kendall Square 55 Broadway, Suite 920 Cambridge, MA 02142-1093 Phone: 617-494-2055 Fax: 617-494-2865
Region II	New York and New Jersey	One Bowling Green Room 429 New York, NY 10004-1415 Phone: 212-668-2170 Fax: 212-668-2136
Region III	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia	1760 Market St Suite 500 Philadelphia, PA 19103-4124 Phone: 215-656-7100 Fax: 215-656-7260
Region IV	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and U.S. Virgin Islands	230 Peachtree Street NW Suite 800 Atlanta, GA 30303 Phone: 404-865-5600 Fax: 404-865-5605
Region V	Illinois, Indiana, Minnesota, Michigan, Ohio, and Wisconsin	200 W Adams St Suite 320 Chicago, IL 60606 Phone: 312-353-2789 Fax: 312-886-0351
Region VI	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas	819 Taylor St Room 8A36 Forth Worth, TX 76102 Phone: 817-978-0550 Fax: 817-978-0575

<u>Office</u>	<u>Area Served</u>	<u>Contact Information</u>
Region VII	Iowa, Kansas, Missouri, and Nebraska	901 Locust, Suite 404 Kansas City, MO 64106 Phone: 816-329-3920 Fax: 816-329-3921
Region VIII	Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming	12300 W Dakota Ave. Suite 310 Lakewood, CO 80228-2583 Phone: 720-963-3300 Fax: 720-963-3333
Region IX	Arizona, California, Hawaii, Nevada, Guam, American Samoa, and Northern Mariana Islands	201 Mission St Room 1650 San Francisco, CA 94105-1839 Phone: 415-744-3133 Fax: 415-744-2726
Region X	Alaska, Washington, Oregon, and Idaho	Jackson Federal Building 915 Second Ave, Suite 3142 Seattle, WA 98174-1002 Phone: 206-220-7954 Fax: 206-220-7959
Lower Manhattan Recovery Office	Lower Manhattan	One Bowling Green, Room 436 New York, NY 10004 Phone: 212-668-1770 Fax: 212-668-2505
New York Metropolitan Office	New York Metropolitan Area	One Bowling Green, Room 428 New York, NY 10004-1415 Telephone: 212-668-2201 Fax: 212-668-2136
Chicago Metropolitan Office	Chicago Metropolitan Office	200 West Adams Street Suite 320 Chicago, IL 60606 Telephone: 312-886-1616 Fax: 312-886-0351
Los Angeles Metropolitan Office	Los Angeles Metropolitan Area	888 S. Figueroa, Suite 1850 Los Angeles, CA 90012 Telephone: 213-202-3950 Fax: 213-202-3961
Washington, DC Metropolitan Office	Washington, DC Metropolitan Area	1990 K Street NW Suite 510 Washington, DC 20006 Telephone: 202-219-3562/3565 Fax: 202-219-3545

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