



U.S. Department
of Transportation

**Federal Transit
Administration**

CIRCULAR

FTA C 9070.1F

May 1, 2007

**Subject: ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES
PROGRAM GUIDANCE AND APPLICATION INSTRUCTIONS**

1. **PURPOSE.** This circular is a re-issuance of guidance on the administration of the transit assistance program for elderly individuals and individuals with disabilities under 49 U.S.C. 5310, and guidance for the preparation of grant applications. This revision incorporates provisions of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).
2. **CANCELLATION.** This circular cancels Federal Transit Administration (FTA) Circular 9070.1E, "Elderly Individuals and Individuals with Disabilities Program Guidance and Application Instructions," dated October 1, 1998.
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 requirements of this circular to the extent permitted by law.
5. **FEDERAL REGISTER NOTICE.** In conjunction with publication of this circular, a *Federal Register* Notice was published on March 29, 2007 (72 FR 14851), addressing comments received during the development of the circular.
6. **AMENDMENTS TO THE CIRCULAR.** FTA reserves the right to amend this circular to update references to requirements contained in other revised or new guidance and regulations that undergo notice and comment procedures, without further notice and comment on this circular.
7. **ACCESSIBLE FORMATS.** This document is available in accessible formats upon request. Paper copies of this circular as well as information regarding these accessible formats may be obtained by calling FTA's Administrative Services Help Desk, at 202-366-4865.

/S/ Original Signed by

James S. Simpson
Administrator

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Management

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SECTION 5310 PROGRAM CIRCULAR

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CHAPTER I

INTRODUCTION AND BACKGROUND

1. THE FEDERAL TRANSIT ADMINISTRATION (FTA). FTA is one of ten operating administrations within the U.S. Department of Transportation (DOT). Headed by an Administrator who is appointed by the President of the United States, FTA functions through a Washington, DC, headquarters office, ten regional offices and five metropolitan offices that assist transit agencies in all 50 States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, Northern Mariana Islands, and American Samoa.

Public transportation includes buses, subways, light rail, commuter rail, monorail, passenger ferry boats, trolleys, inclined railways, people movers, and vans. Public transportation can be either fixed-route or demand-response service.

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 grant recipients are responsible for managing their programs in accordance with Federal requirements, and FTA is responsible for ensuring that grantees follow Federal statutory and administrative requirements.

2. AUTHORIZING LEGISLATION. The Safe, Accountable, Flexible, Efficient Transportation Equity Act, a Legacy for Users (SAFETEA-LU) (Pub. L. 109-059), signed into law on August 10, 2005, and codified in 49 U.S.C. Chapter 53, provides \$286.4 billion in guaranteed funding for Federal surface transportation programs over six years through FY 2009, including \$52.6 billion for Federal transit programs—a 46 percent increase over transit funding guaranteed in the previous authorization, the Transportation Equity Act for the 21st Century (TEA-21).
3. HOW TO CONTACT FTA. FTA's regional and metropolitan offices are responsible for the provision of financial assistance to FTA grantees and oversight of grant implementation for most FTA programs. Certain specific programs are the responsibility of FTA headquarters. Inquiries should be directed to either the regional or metropolitan office responsible for the geographic area in which you are located. See Appendix C for additional information.

For further information, visit the FTA website: <http://www.fta.dot.gov>, or contact FTA Headquarters at the following address and phone number:

Federal Transit Administration
Office of Communication and Congressional Affairs
400 Seventh Street SW
Washington, DC 20590
Phone: 202-366-4043
Fax: 202-366-3472

4. GRANTS.GOV. FTA posts all competitive grant opportunities on Grants.gov. Grants.gov is the one website for information on all discretionary Federal grant opportunities. Led by the U.S. Department of Health and Human Services (DHHS) and in partnership with Federal grant-makers including 26 agencies, 11 commissions and several States, Grants.gov is one of 24 Federal cross-agency E-government initiatives. It is designed to improve access to government services via the Internet. More information about Grants.gov is available at <http://www.grants.gov>.
5. DEFINITIONS. All definitions in 49 U.S.C. 5302(a) apply to this circular, as well as the following definitions:
 - a. Chief Executive Officer of a State means the Governor of any of the 50 States or Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the U.S. Virgin Islands, the Mayor of the District of Columbia, or his/her designee.
 - b. Coordinated Plan See “Locally Developed, Coordinated Public Transit-Human Services Transportation Plan.”
 - c. Elderly Individual includes, at a minimum, all persons 65 years of age or older. Grantees may use a definition that extends eligibility for service to younger (e.g., 62 and older, 60 and over) persons.
 - d. Human Service Transportation means transportation services provided by or on behalf of a human service agency to provide access to agency services and/or to meet the basic, day-to-day mobility needs of transportation-disadvantaged populations, especially individuals with disabilities, older adults, and people with low incomes.
 - e. Individual With a Disability means an individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use effectively, without special facilities, planning, or design, public transportation service or a public transportation facility. 49 U.S.C. 5302(a)(5).
 - f. Job Access and Reverse Commute Program (JARC) means the FTA formula grant program for projects relating to 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, and for public transportation projects designed to transport residents of urbanized areas and nonurbanized areas to suburban employment opportunities. 49 U.S.C. 5316.
 - g. Locally Developed, Coordinated Public Transit-Human Services Transportation Plan means 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.

- h. 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.
- i. New Freedom Program means the FTA formula grant program for new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C.12101 et seq.) that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services. 49 U.S.C. 5317.
- j. Non-profit Organization means a corporation or association determined by the Secretary of the Treasury to be an organization described by 26 U.S.C. 501(c) which is exempt from taxation under 26 U.S.C. 501(a) or one which has been determined under State law to be non-profit and for which the designated State agency has received documentation certifying the status of the non-profit organization.
- k. Older Adults: See “Elderly Individual”
- l. Other than Urbanized (Nonurbanized) Area means any area outside of an urbanized area. The term “nonurbanized area” includes rural areas and urban areas under 50,000 in population not included in an urbanized area.
- m. Pre-award Authority means 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 project(s). Applicants must comply with all Federal requirements. Failure to do so will render a project ineligible for FTA financial assistance.
- n. Program of Projects means a list of projects to be funded in a grant application submitted to FTA by a State. The program of projects (POP) lists the subrecipients and indicates whether they are private non-profit agencies or local governmental authorities, designates the areas served (including rural areas), and identifies any tribal entities. In addition, the POP 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.
- o. Recipient means a State agency designated by the chief executive officer of a State to receive funds apportioned by formula to the States under Section 5310(b)(1), or a local government authority when Federal Highway Administration (FHWA) funds are flexed to Section 5310 to support services for individuals with disabilities.
- p. Subrecipient means a private non-profit organization, if the public transportation service provided is unavailable, insufficient, or inappropriate; or a governmental

authority that is approved by the State to coordinate services for elderly individuals and individuals with disabilities or certifies that there are not any non-profit organizations readily available in the area to provide the services.

- q. Urbanized Area means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an “urbanized area” by the Secretary of Commerce. Small urbanized areas as used in the context of FTA formula grant programs are urbanized areas with a population of at least 50,000 but less than 200,000.
6. PROGRAM HISTORY. The Section 5310 program was established in 1975 as a discretionary capital assistance program. In cases where public transit was inadequate or inappropriate, the program awarded grants to private non-profit organizations to serve the transportation needs of elderly persons and persons with disabilities. FTA (then the Urban Mass Transportation Administration (UMTA)) apportioned the funds among the States by formula for distribution to local agencies, a practice made a statutory requirement by the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). In the early years of the program, many of the subrecipient non-profit agencies used the vehicles primarily for transportation of their own clients. Funding for the Section 16(b)(2) program, as it was then known, ranged between \$20–35 million annually until the passage of ISTEA, when it increased to the \$50–60 million range. ISTEA also introduced the eligibility of public agencies under limited circumstances to facilitate and encourage the coordination of human service transportation. Increasingly, FTA guidance encouraged and required coordination of the program with other Federal human service transportation programs. In lieu of purchasing vehicles, acquisition of service in order to promote use of private sector providers and coordination with other human service agencies and public transit providers was made an eligible expense under ISTEA. Other provisions of ISTEA introduced the ability to transfer flexible funds to the program from certain highway programs and the flexibility to transfer funds from the Section 5310 program to the rural and urban formula programs.

The Transportation Equity Act for the 21st Century (TEA–21) enacted in 1998, reauthorized the Section 5310 program. TEA–21 increased the funding levels for the Section 5310 program but made no significant program changes. In 2005, Congress enacted SAFETEA–LU. SAFETEA–LU introduced the requirement that projects funded with 5310 funds be derived from a locally developed, coordinate public transit-human services transportation plan; removed the flexibility that funds can be transferred to Section 5311 for Section 5311 program purposes during the fiscal year apportioned, if funds were not needed for Section 5310 program purposes; introduced a seven State pilot program that allows selected States to use up to one-third of the funds apportioned to them for operating assistance; and allowed transfers to Section 5307 or 5311, but only to fund projects selected for Section 5310 program purposes.

CHAPTER II

PROGRAM OVERVIEW

1. STATUTORY AUTHORITY. Title 49 U.S.C. 5310 authorizes the formula assistance program for the special needs of elderly individuals and individuals with disabilities. FTA refers to this formula program as “the Section 5310 program.” FTA, on behalf of the Secretary of Transportation, apportions the funds appropriated annually to the States based on an administrative formula that considers the number of elderly individuals and individuals with disabilities in each State. These funds are subject to annual appropriations.

Title 49 U.S.C. 5310(a)(1) authorizes funding for public transportation capital projects planned, designed and carried out to meet the special needs of elderly individuals and individuals with disabilities.

Title 49 U.S.C. 5310(a)(2) provides that a State may allocate the funds apportioned to it to:

- a. a private non-profit organization, if public transportation service provided by State and local governmental authorities under Section 5310(a)(1) is unavailable, insufficient, or inappropriate; or
- b. a governmental authority that:
 - (1) is approved by the State to coordinate services for elderly individuals and individuals with disabilities; or
 - (2) certifies that there are not any non-profit organizations readily available in the area to provide the special services.

The code assigned to the Section 5310 program in the Catalogue of Federal Domestic Assistance is 20.513.

2. PROGRAM GOAL. The goal of the Section 5310 program is to improve mobility for elderly individuals and individuals with disabilities throughout the country. Toward this goal, FTA provides financial assistance for transportation services planned, designed, and carried out to meet the special transportation needs of elderly individuals and individuals with disabilities in all areas—urbanized, small urban, and rural. The program requires coordination with other Federally-assisted programs and services in order to make the most efficient use of Federal resources.
3. SECTION 5310 PROGRAM MEASURES. Under the Government Performance Results Act (GPRA), FTA is required by law to “establish performance goals to define the level of performance” and to also “establish performance indicators to be used in measuring relevant outputs, service levels, and outcomes” for each of its programs. The performance measures described below are designed to fulfill FTA’s obligations under this Act. These measures will be used at a program level, and will not be used to assess individual grants.

FTA will be capturing overall program measures to be used with the GPRA and the Performance Assessment Rating Tool process for the U.S. Office of Management and Budget. FTA will conduct independent evaluations of the program focused on specific data elements in order to better understand the implementation strategies and related outcomes associated with the program. The following indicators are targeted to capture overarching program information as part of the Annual Report that each grantee submits to FTA. Specific reporting requirements for recipients can be found in Chapter 6.

The two measures established for the Section 5310 program are:

- a. Gaps in Service Filled. Provision of transportation options that would not otherwise be available for older adults and individuals with disabilities measured in numbers of older adults and individuals with disabilities afforded mobility they would not have without program support.
 - b. Ridership. Actual or estimated number of rides (as measured by one-way trips) provided annually for individuals with disabilities and older adults on Section 5310—supported vehicles and services.
4. STATE ROLE IN PROGRAM ADMINISTRATION. The State agency designated by the chief executive officer of the State has the principal authority and responsibility for administering the Section 5310 program.

The State agency:

- a. documents the State's procedures in a State Management Plan (SMP);
- b. notifies eligible local entities of funding availability;
- c. plans for future transportation needs, and ensures integration and coordination among diverse transportation modes and providers;
- d. solicits applications;
- e. develops project selection criteria;
- f. reviews and selects projects for approval;
- g. forwards an annual program of projects (POP) and grant application to FTA;
- h. certifies that allocations of grants to subrecipients are distributed on a fair and equitable basis;
- i. certifies eligibility of applicants and project activities;
- j. ensures compliance with Federal requirements by all subrecipients;

- k. certifies that all projects are derived from a locally developed, coordinated public transit-human services transportation plan developed through a process that consists of representative of public, private, and non-profit transportation and human services providers with participation by the public;
- l. monitors local project activity; and
- m. oversees project audit and closeout.

Eligible non-profit organizations or governmental authorities must apply for funding using the process defined by the State.

Funds are obligated based on the annual POP included in a statewide grant application. FTA does not conduct project-by-project review and approval of each project. The State agency ensures that local applicants and project activities are eligible and in compliance with Federal requirements, that private for-profit transportation providers are provided an opportunity to participate to the maximum extent feasible, and that the program provides for maximum feasible coordination of transportation services assisted under Section 5310 with transportation services assisted by other Federal sources. In addition, the State ensures that all program activities are included in the Statewide Transportation Improvement Program (STIP). Once FTA has approved the application, funds are available for State administration and for allocation to individual subrecipients within the State.

Under Department of Transportation regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 49 CFR part 18 (sometimes referred to as the common grant rule), the State may rely on its own laws and procedures instead of Federal procedures in the areas of financial management systems, equipment, and procurement. 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 sub-agreement, the State's procedures will apply to the third party contract. However, private non-profit subrecipients must comply with the "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations." (49 CFR part 19).

5. FTA ROLE IN PROGRAM ADMINISTRATION.

- a. FTA headquarters in Washington, DC, serves a broad, program level role in the administration of the program. FTA headquarters:
 - (1) Provides overall policy and program guidance for the Section 5310 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. Regional offices:
- (1) review and approve State grant applications;
 - (2) obligate funds, manage grants, oversee the State's implementation of the annual program, including revisions to the POP;
 - (3) receive State certifications;
 - (4) review and approve State Management Plans (SMPs);
 - (5) provide technical assistance, advice, and guidance to the States as needed; and
 - (6) perform State management reviews every three years, or as circumstances warrant, and other reviews as necessary.

FTA uses contractor support to conduct 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 timeframe. 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 the areas of procurement, financial management, drug and alcohol testing, Americans with Disabilities Act of 1990 (ADA) or any other civil rights laws.

6. RELATIONSHIP TO OTHER FTA PROGRAMS.

- a. Non-urbanized Area Formula Program (Section 5311). The Section 5311 program makes Federal funds available to States to assist in the development, improvement, and use of public transportation systems in nonurbanized areas. While the overall objectives of the Section 5311 and Section 5310 programs differ (that is, the objective of Section 5311 is to provide transportation to the general public in nonurbanized areas and the objective of Section 5310 is to serve elderly individuals and individuals with disabilities in both rural and urbanized areas), there are parallels which make it desirable for States to consider both resources and plan for their use in a complementary way.

With few exceptions, the two programs are administered by the same State agency. Many Section 5311 subrecipients are private non-profit organizations, and in some

cases a single organization receives both Section 5310 and Section 5311 funding. In other cases, subrecipients of Section 5310 funds seek to participate in coordinated service arrangements which also include Section 5311 funded organizations. FTA encourages participation in such coordinated efforts as long as the coordinated services will continue to meet the purposes of both programs. FTA has made the guidelines for both programs as consistent as possible in order to simplify program administration.

See Chapter V for requirements related to the local coordinated public transit-human service transportation plan for the Section 5310, Job Access and Reverse Commute (JARC), and New Freedom Programs. Section 5311 subrecipients should be active participants in the local coordinated planning process through which Section 5310 projects are developed in rural areas.

Under Section 5311, the Rural Transportation Assistance Program (RTAP) provides for technical assistance, training, and related support services in nonurbanized areas. Section 5310 providers may participate in RTAP sponsored activities, at the State's discretion, as long as the activities are primarily designed and delivered to benefit nonurbanized transit providers.

- b. Coordination Provisions, Sections 5310, JARC and New Freedom. Federal transit law, as amended by SAFETEA-LU, requires that projects funded from the Section 5310, JARC (Section 5316), and New Freedom (Section 5317) programs be derived from a locally developed, coordinated public transit-human service transportation plan ("coordinated plan"). A coordinated plan should maximize the programs' collective coverage by minimizing duplication of services. Further, a coordinated plan should be developed through a process that includes representatives of public, private and non-profit transportation and human services providers, and participation by the public. A coordinated plan may incorporate activities offered under other programs sponsored by Federal, State, and local agencies to greatly strengthen its impact. FTA also encourages participation in coordinated service delivery as long as the coordinated services will continue to meet the purposes of all programs. See Chapter V for details on the coordinated planning requirements.
- c. The 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 small urbanized areas with populations less than 200,000. FTA apportions these funds to the Governor or the Governor's designee(s) for use in small urbanized areas. Section 3009 of SAFETEA-LU treats the Virgin Islands as a small urbanized area for the purposes of Section 5307. Hence, FTA apportions Section 5307 funds to the Virgin Islands in lieu of Section 5311 funds.

Section 5307 also provides funding for capital and planning assistance for public transportation in large urbanized areas with populations over 200,000. FTA makes these funds available to the designated recipient(s) in large urbanized areas for capital and planning assistance.

FTA has provided guidance for Section 5307 in the current FTA Circular 9030.1.

- d. FHWA Flexible Funds. Surface Transportation Program (STP) funds, among others, are a source of flexible funding for both highway and transit projects. At the State's discretion, these flexible funds may be used for any transit capital project eligible for assistance under 49 U.S.C. Chapter 53 (which under Section 5310 includes acquiring transportation service under contract). These flexible funds may be used to supplement the Section 5310 program. When the State decides to use flexible funds for Section 5310 projects, the funds are transferred and managed within the Section 5310 program. When flexible funds are transferred to support special services for individuals with disabilities, in a specific area, a local governmental authority may be the recipient rather than the State. For further discussion on the transfer of funds, see Chapter III, Paragraph 4.

7. COORDINATION WITH OTHER FEDERAL PROGRAMS.

- a. The Federal Interagency Coordinating Council on Access and Mobility (CCAM).

The Federal Interagency Coordinating Council on Access and Mobility (CCAM), comprised of 11 Federal departments and agencies, was established by Executive Order 13330, "Human Service Transportation Coordination," signed by President George W. Bush on February 24, 2004. The members consist of the Secretaries of the U.S. Departments of Transportation, Health and Human Services, Labor, Education, Agriculture, Housing and Urban Affairs, Interior, Veterans Affairs, the Commissioner of Social Security, the Attorney General, and the Chair of the National Council on Disabilities. CCAM coordinates 64 Federal programs providing transportation funding for older Americans, people with disabilities, and individuals with low incomes.

CCAM is tasked with seeking ways to reduce transportation service duplication, increase efficient transportation service delivery, and expand transportation access for older Americans, people with disabilities, and individuals with low incomes. To implement the Executive Order, CCAM launched the United We Ride initiative to break down the barriers between programs and set the stage for local partnerships that generate common sense solutions and deliver A-plus performance for everyone who needs transportation. UWR has been working with States and communities to address gaps and needs related to human service transportation in their geographic regions. This includes assistance with the development and implementation of action plans for coordinated human service transportation.

Coordination Councils at the State and local levels include participation from funding agencies, public and private transportation providers, human service providers, and consumers, including people with disabilities. These councils are actively working on identifying needs, resources, and gaps for people with disabilities and others who require assistance with transportation services.

Consistent with the presidential directive, members of CCAM adopted the following policy statement in October 2006: “Member agencies of the Federal Coordinating Council on Access and Mobility resolve that Federally-assisted grantees that have significant involvement in providing resources and engage in transportation delivery should participate in a local coordinated human services transportation planning process and develop plans to achieve the objectives to reduce duplication, increase service efficiency and expand access for the transportation-disadvantaged populations as stated in Executive Order 13330.”

At the same time, CCAM adopted a policy clarifying Federal policy regarding vehicle sharing: “Member agencies of CCAM resolve that Federally-assisted grantees that have significant involvement in providing resources and engage in transportation should coordinate their resources in order to maximize accessibility and availability of transportation services.”

Both of these policy statements are intended for implementation by each CCAM member department through administrative, regulatory, and/or legislative mechanisms.

CCAM has also established the UWR Logic Model and Performance Measure tool to assist States and communities with identifying potential measures in a coordinated transportation system. The policy statements, logic model and other tools can be found on the UWR website at www.unitedweride.gov.

- b. Meal Delivery for Homebound Individuals. Public transportation service providers receiving Section 5310 funds may coordinate and assist in regularly providing meal delivery service for homebound individuals, if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

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CHAPTER III

GENERAL PROGRAM INFORMATION

1. STATE AGENCY DESIGNATION. The chief executive officer of each State or an official designee designates an agency with the requisite legal, financial, and staffing capabilities to receive and administer Federal funds under this program. The designated State agency is the recipient of all Section 5310 funds apportioned to the State, and applies to the Federal Transit Administration (FTA) for these funds on behalf of private non-profit agencies and eligible local governmental authorities within the State. Designations remain in effect until changed by the chief executive officer of a State by official notice of redesignation to the FTA Regional Administrator.
2. APPORTIONMENT OF SECTION 5310 FUNDS. Section 5310 funds are apportioned among the States by a formula which is based on the number of elderly persons and persons with disabilities in each State according to the latest available U.S. census data. The annual apportionment for each State is published in the *Federal Register* following the enactment of the annual Department of Transportation (DOT) appropriations act.
3. FUNDS AVAILABILITY. Section 5310 funds are available to the States during the Fiscal Year (FY) of apportionment plus two additional years. Thus, for example, funds apportioned in FY 2006 are available until the end of FY 2008 (September 30, 2008). 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 the States.
4. TRANSFER OF FUNDS.
 - a. Transfer to other FTA Programs. A State may transfer Section 5310 funds apportioned to it to an apportionment under Section 5311(c) or 5307, or both. Transferred funds must be used for eligible Section 5310 projects. A State may make a transfer to Section 5307 only after coordinating with private non-profit providers of services under Section 5310. The period of availability for the transferred funds is not changed.

The State must notify the FTA regional administrator of the State's intent to transfer funds to Section 5307 or Section 5311 for projects selected under Section 5310. The notification must indicate the fiscal year of the apportionment, the amount of funds transferred, the program to which they are being transferred, and the selected Section 5310 projects for which they will be used.

- b. Transfer of (FHWA) Flexible Funds. Flexible funds from the Federal Aid Highway Program may be transferred to the Section 5310 program for use by the State. Unlike transfers between transit programs, under which funds retain their original purposes, flexible funds transferred to the Section 5310 program will be treated under the program requirements applicable to Section 5310. The funds are available for obligation by the State for two additional years after the year in which they are transferred.

For transfers of flexible funds to Section 5310, the State must notify both the Federal Highway Administration (FHWA) and FTA and request FHWA to transfer the funds.

5. 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 Rural Transportation Assistance Program (RTAP) allocations annually as well as Section 5310, 5316, and 5317 funds, and in some cases, Section 5307 funds. [Note: Under Section 3009 of SAFETEA-LU, the Virgin Islands are treated as an urbanized area for the purpose of 5307. FTA does not apportion Section 5311 or RTAP funds to the Virgin Islands.] Specifically, 48 U.S.C. 1469a permits:
 - a. 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
 - b. 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(s) 5307, 5310, 5311, 5316, and 5317 funding into a single grant by transferring funds from one Section to another. The insular areas may transfer all or a portion of the funds apportioned for Section 5307, 5310, 5316, or 5317 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 elderly individuals and individuals 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.

6. ELIGIBLE SUBRECIPIENTS. There are three categories of eligible subrecipients of Section 5310 funds:
 - a. Private non-profit organizations;
 - b. Governmental authorities that certify to the chief executive officer of a State that no non-profit corporations or associations are readily available in an area to provide the service; and

- c. Governmental authorities approved by the State to coordinate services for elderly individuals and individuals with disabilities.

Local governmental authorities eligible to apply for Section 5310 funds as coordinators of services for elderly persons and persons with disabilities are those designated by the State to coordinate human service activities in a particular area. Examples of such eligible governmental authorities are a county agency on aging or a public transit provider which that State has identified as the lead agency to coordinate transportation services funded by multiple Federal or State human service programs.

7. STATE ADMINISTRATIVE EXPENSES. Up to 10 percent of the State's total fiscal year apportionment may be used to fund program administration costs including administration, planning and technical assistance. Program administration costs may be funded at 100 percent Federal share.

The State and the designated recipient in urbanized areas have pre-award authority to incur administrative costs for Section 5310. Because the program is continuously managed, oldest funds available are drawn first regardless of the year of award for program activity.

FTA encourages States to identify all the available Section 5310 administrative funds they intend to use routinely in each annual grant application. However, a State may accumulate the "entitlement" to Section 5310 administrative funds within their period of availability to augment the funds available for a special administrative need in a subsequent year. States may accumulate Section 5310 administrative funds in the year of apportionment plus two years.

If a State includes program administration expenses in excess of the 10 percent in its grant application, it must document the unused Section 5310 administrative funds from prior years available to augment the amount of Section 5310 administrative funds in the current apportionment.

Allowable administrative costs may include, but are not limited to, general administrative and overhead costs, staff salaries, office supplies, and development of specifications for vehicles and equipment. Guidance on eligible costs is in Office of Management and Budget (OMB) Circular A-87 (codified at 2 CFR part 225). The program administration budget line item may also include technical assistance and planning activities, including allocations to subrecipients to support the local coordinated planning process.

FTA will allow all or a portion of the administrative funds for Section 5310, Job Access and Reverse Commute (JARC), and New Freedom to be combined to support activities (such as coordinated planning) that are common to all three programs. States may combine program administration funds into one administrative account, so long as the recipient uses the funds for costs associated with administering the Section 5310, JARC, and New Freedom programs. However, FTA must still track the funds attributable to each program at the accounting classification code, Activity Line Item (ALI), and Financial Purpose Code Level in respective grants. As the State incurs expenses against the pooled funds for

program administration, it may draw down the reimbursement against any grant that has undisbursed program administration funds.

8. ELIGIBLE CAPITAL EXPENSES. Funds for the Section 5310 program are available for capital expenses as defined in Section 5302(a)(1) to support the provision of transportation services to meet the special needs of elderly persons and persons with disabilities. Examples of capital expenses include, but are not limited to:
- a. buses;
 - b. vans;
 - c. radios and communication equipment;
 - d. vehicle shelters;
 - e. wheelchair lifts and restraints;
 - f. vehicle rehabilitation; manufacture, or overhaul;
 - g. preventive maintenance, as defined in the National Transit Database (NTD);
 - h. extended warranties which do not exceed the industry standard;
 - i. computer hardware and software;
 - j. initial component installation costs;
 - k. vehicle procurement, testing, inspection, and acceptance costs;
 - l. lease of equipment when 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 and OMB Circular A-94, which provides the necessary discount factors and formulas for applying the same;
 - m. acquisition of transportation services under a contract, lease, or other arrangement. Both capital and operating costs associated with contracted service are eligible capital expenses. User-side subsidies are considered one form of eligible arrangement. The State, as recipient, has the option to decide whether to provide funding for such acquired services. Funds may be requested for contracted services covering a time period of more than one year. The capital eligibility of acquisition of services as authorized in 49 U.S.C. 5310(a)(3) is limited to the Section 5310 program;
 - n. the introduction of new technology, through innovative and improved products, into public transportation;

- o. transit related intelligent transportation systems (ITSs); and
- p. supporting new mobility management and coordination programs among public transportation providers and other human service agencies providing transportation. Mobility management is an eligible capital cost. Mobility management techniques may enhance transportation access for populations beyond those served by one agency or organization within a community. For example, a non-profit agency could receive Section 5310 funding to support the administrative costs of sharing services it provides to its own clientele with other elderly individuals and/or individuals with disabilities or elderly individuals and coordinate usage of vehicles with other non-profits, but not the operating costs of service. 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. Mobility management activities may include:
 - (1) The promotion, enhancement, and facilitation of access to transportation services, including the integration and coordination of services for individuals with disabilities, older adults, and low income individuals;
 - (2) Support for short term management activities to plan and implement coordinated services;
 - (3) The support of State and local coordination policy bodies and councils;
 - (4) The operation of transportation brokerages to coordinate providers, funding agencies and customers;
 - (5) The provision of coordination services, including employer-oriented Transportation Management Organizations' and Human Service Organizations' customer-oriented travel navigator systems and neighborhood travel coordination activities such as coordinating individualized travel training and trip planning activities for customers;
 - (6) The development and operation of one-stop transportation traveler call centers to coordinate transportation information on all travel modes and to manage eligibility requirements and arrangements for customers among supporting programs; and
 - (7) Operational planning for the acquisition of intelligent transportation technologies to help plan and operate coordinated systems inclusive of Geographic Information Systems (GIS) mapping, Global Positioning System technology, coordinated vehicle scheduling, dispatching and monitoring technologies as well as technologies to track costs and billing in a coordinated system and single smart customer payment systems. (Acquisition of technology is also eligible as a stand alone capital expense).

9. FEDERAL/LOCAL MATCHING REQUIREMENTS.

- a. General. The Federal share of eligible capital costs may not exceed 80 percent of the net cost of the activity. The 10 percent that is eligible to fund program administrative costs including administration, planning, and technical assistance may be funded at 100 percent Federal share. The local share of eligible capital costs shall be no less than 20 percent of the net cost of the activity.

The local share may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local service agency or private social service organization, or new capital. Some examples of these sources of local match include: State or local appropriations; dedicated tax revenues; private donations; revenue from service contracts; toll revenue credits; and net income generated from advertising and concessions. Non-cash share such as donations, volunteered services, or in-kind contributions is eligible to be counted toward the local match as long as the value of each is documented and supported, represents a capital cost which would otherwise be eligible under the program, and is included in the net project costs in the project budget. In addition, the local share may be derived from Federal programs that are eligible to be expended for transportation, other than DOT programs, or from DOT's Federal Lands Highway Program. Examples of types of programs that are potential sources of local match include: employment, training, aging, medical, community services, and rehabilitation services. Specific program information for other types of Federal funding is available at www.unitedweride.gov.

- b. Exceptions. The Federal share is 90 percent for vehicle-related equipment and facilities required by the Clean Air Act (CAA) or the Americans with Disabilities Act (ADA). It is only the incremental cost of the equipment or facility required by the CAA or ADA that may be funded at 90 percent, not the entire cost of the vehicle or facility, even if the vehicle or facility is purchased for use in service required by the ADA or CAA. States wishing to apply for assistance at the higher match ratio should consult the FTA regional office for further guidance regarding methods of computing the incremental cost before submitting an application.
- c. Seven State Pilot Program. Section 3012(b) of SAFETEA-LU authorized a seven State pilot program allowing four States specified in SAFETEA-LU (Alaska, Minnesota, Oregon, and Wisconsin) and three selected by FTA (Louisiana, North Carolina, and South Carolina) to use up to one-third of their apportionment for fiscal years 2006 – 2009 for operating expenses. For these States, the Federal share for operating expenses is 50 percent, or 62.5 percent of the sliding scale rate for capital grants.
- d. Sliding Scale Match. Higher Federal share rates for capital costs are available to 14 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 14 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 5310 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	State	Sliding Scale Rate for Transit Capital Grants
Alaska	90.97	Nevada	94.89
Arizona	90.49	New Mexico	85.44
California	83.57	Oregon	84.63
Colorado	82.79	South Dakota	81.95
Hawaii	81.30	Utah	89.52
Idaho	84.97	Washington	81.42
Montana	82.75	Wyoming	86.77
<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 5310 and 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 FTA for Section 5310 or 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 5310 and 5311 grants.

Table 2: Sliding Scale Rates for FTA Section 5310 Grants

(Numbers represent the maximum Federal share, as a percentage of net project cost.)

State	Federal Share of 5310 Capital Grants	State	Federal Share of 5310 Capital Grants
Alabama	80.4	Nebraska	80.18
Alaska	94.95	Nevada	95
Arizona	94.3	New Hampshire	82.45
Arkansas	81.55	New Jersey	80.14
California	88.53	New Mexico	87.92
Colorado	87.31	New York	80.1
Connecticut	80.04	North Carolina	80.98
Delaware	---	North Dakota	80.93
Florida	81.93	Ohio	80.16
Georgia	80.48	Oklahoma	80.58
Hawaii	82.48	Oregon	89.73
Idaho	92.66	Pennsylvania	80.38
Illinois	80.15	Rhode Island	80.05
Indiana	80.17	South Carolina	80.63
Iowa	80	South Dakota	82.82
Kansas	80.05	Tennessee	80.66
Kentucky	80.58	Texas	80.22
Louisiana	80.41	Utah	93.23
Maine	80.28	Vermont	81.08
Maryland	80.11	Virginia	81.5
Massachusetts	80.12	Washington	86.5
Michigan	81.83	West Virginia	81.36
Minnesota	81.42	Wisconsin	81.11
Mississippi	80.83	Wyoming	90.49
Missouri	80.69	District of Columbia	83.15
Montana	86.58	Puerto Rico	80.25

*Including National Forests, national parks, and monuments

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

CHAPTER IV

PROGRAM DEVELOPMENT

1. COORDINATION REQUIREMENTS. Title 49 U.S.C. 5310, as amended by SAFETEA-LU, requires a recipient of Section 5310 funds to certify that projects selected are derived from a locally developed, coordinated public transit-human services transportation plan developed through a process that includes representatives of public, private, and non-profit transportation and human service providers, participation by the public, and representatives addressing the needs of older adults and individuals with disabilities. (See Chapter V of this circular for further information.) This coordinated transportation plan should be prepared through a process that is consistent with the applicable metropolitan or statewide planning process, as described below. Transit service and demographic information developed and used in the broader metropolitan and statewide processes may provide a useful starting point for the more detailed review that will take place in preparing the coordinated plan. Similarly, the extensive public participation and stakeholder consultation provisions of metropolitan and statewide planning can provide a useful context and basis for the more focused local public involvement involved in preparing the coordinated plan. For these reasons, the Federal Transit Administration (FTA) strongly encourages coordination and consistency between the local coordinated public transit-human services transportation plan and metropolitan or statewide transportation planning processes, as described in 23 CFR part 450 and 49 CFR part 613.
2. PLANNING REQUIREMENTS. To be eligible for funding, Section 5310 projects in urbanized areas must be included in the Metropolitan Transportation Plan (MTP) prepared and approved by the metropolitan planning organization (MPO), the Transportation Improvement Program (TIP) approved jointly by the MPO and the Governor, and the Statewide Transportation Improvement Program (STIP) developed by a State and jointly approved by FTA and Federal Highway Administration (FHWA). Projects outside urbanized areas must be included in, or be consistent with the Statewide Long-Range Transportation Plan, as developed by the State, and must be included in the STIP. With limited exceptions, all Federally-funded highway or transit projects must be included in the applicable plan and program documents according to State and local procedures. Areas may choose to include project level information or more aggregated program level information. For purposes of convenience, the recipient may group its planned expenditures of Section 5310 funds into statewide or metropolitan area-wide projects, such as vehicle acquisitions or services contracted for rural and urban recipients, and administration costs. All projects must adhere to the requirements of 49 U.S.C. 5303 and 5304. See Appendix E for further information on how the various planning processes relate to one another.
3. PROGRAM OF PROJECTS. The program of projects (POP) identifies the subrecipients and projects for which the State is applying for financial assistance. The Section 5310 annual POP the State submits to FTA for approval must indicate the total number of subrecipients; identify each subrecipient and indicate whether they are governmental

authorities, or private non-profit agencies; and identify any that are Indian tribal governments or tribal transit agencies (including both Federally-recognized and other tribal governments). In addition, the POP must include a brief description of each project, which includes the counties served, and any tribal transportation needs served by the project. The POP must show, for each project, the total project cost and the Federal share. The total Federal funding level for the POP cannot exceed the total amount of Section 5310 funds available. The program of projects must be identical to, or consistent with, listings contained in the applicable TIP and STIP.

So that FTA can comply with the Federal Funding Accountability and Transparency Act 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, 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 may choose to submit this information as a separate attachment in Transportation Electronic Award and Management (TEAM) system or to include the information in the POP.

4. CATEGORIES OF APPROVAL. FTA's approval of a POP does not reflect unconditional approval of all projects within the program. Nor does FTA's approval of a POP reflect unconditional approval of all prospective subrecipients identified in the program. FTA recognizes that not all projects in a State POP 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 POP to FTA. FTA also recognizes that all subrecipients identified in the POP may not yet be in compliance with all applicable Federal requirements. To expedite grant award, FTA allows States to separate projects and funds included in its POP into three different categories, depending on whether all Federal requirements have been met.
 - a. 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 subrecipients that will carry out those activities. FTA's approval of Category A projects is unconditional upon grant award. When FTA 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 POP to be in this category.
 - b. Category B. Projects in Category B are those projects the State anticipates approving during the current year, but which have not met all of the Federal statutory or administrative requirements or are proposed to be implemented by a subrecipient that has not yet met all applicable Federal requirements. When the State determines that the 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 it to

Category A. If a State can list all its projects in Category A, it would not list any projects in Category B.

- c. Category C. The optional Category C is a program reserve. FTA designed Category C program reserve funds to accommodate unanticipated program needs. States should not confuse Category C program reserve funds with reasonable contingencies for the projects that the State designated in its POP and included in Category A or B.

States may not include more than 10 percent of the total amount it obligates in the grant in the Category C program reserve. Additionally, FTA strongly encourages the State not to include more funds in Category C than it reasonably expects to allocate to new projects capable of meeting the applicable Federal requirements or to budget adjustments in existing projects within 12 months. If the State does not expect to select projects for which it will use all its Category C funds, the State should defer obligating those remaining funds until the following year.

The State must allocate Category C program reserve funds to specific projects within the period of availability of the funds. FTA will deobligate any Category C funds not allocated within the period of availability. FTA assumes that the funds remaining in Category C are the newest funds, if a grant contains funds apportioned in more than one fiscal year. Funds deobligated after the period of availability lapse, and FTA will redistribute these lapsed funds to all the States in the subsequent year's apportionment.

When a State selects projects it will advance out of the Category C program reserve funds, it must notify FTA of the changes to the POP.

5. APPROVAL. FTA is committed to promptly processing grants upon receipt of a complete and acceptable grant application. FTA awards grants and obligates funds for the total amount the State requests for all three categories. FTA grant award constitutes FTA approval of the State's annual POP.

FTA approval of the Section 5310 POP 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 draw down Federal funds to reimburse expenses incurred for Category A projects immediately upon execution of the grant agreement.

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 recipient meets Federal requirements, and advance the projects to Category A before it may draw down funds to support those projects.

In addition, the grant award obligates Federal funds for Category C projects and constitutes approval of Category C projects that are not identified at the time of award but have met or will meet all applicable Federal requirements. However, the State must allocate Federal funds awarded for Category C projects within the period of availability of those funds to

new or existing projects that have met or will meet all of the necessary statutory and administrative requirements.

6. REVISIONS TO PROGRAM OF PROJECTS. The State may revise an approved POP without constituting a change in scope which would require the deobligation and reobligation of funds. The scope of the grant is the approved POP in its entirety. The addition of Federal funds to the approved POP is a change in the scope of the approved POP and requires an amendment of the grant agreement.

For changes that affect the budget line items in the grant budget, the grantee will notify FTA by setting up a budget revision in the TEAM system. For those changes that only affect the POP the grantee should attach a new POP to the “project management milestones” section and then notify FTA, via e-mail, that it has attached the new POP. In addition, grantees should also notify FTA of changes to the POP 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 POP. Unless FTA notifies the State otherwise, the following levels of notification and FTA approval apply to revisions:

- a. Revisions Not Requiring Prior FTA Notification or FTA Approval. The State may make the following revisions without prior notification to FTA:
- (1) Delete a project from the POP if the project cost is less than \$250,000 or 10 percent of the total of the POP, whichever is greater;
 - (2) Advance projects from Category B to Category A, provided the prospective subrecipient is in compliance with all applicable Federal requirements, and the State has no information suggesting otherwise;
 - (3) Allocate Category C funds to existing projects, if the funds are within their period of availability;
 - (4) 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, including number and type of vehicles and changes in operating costs; and
 - (5) Add equipment or property transferred from a subrecipient to another subrecipient listed in the POP, regardless of whether the items were originally funded from a different grant.
- b. Revisions Requiring Notification to FTA, but not FTA Approval. The State may make the following revisions after notifying FTA:

- (1) Allocate Category C funds to new projects under \$250,000, within the period of availability of funds, provided the prospective subrecipient is in compliance with all applicable Federal requirements, and the State has no information suggesting otherwise, and that the State certifies that the project is derived from a locally developed coordinated public transit-human service transportation plan;
 - (2) Create new projects under \$250,000 with funds subtracted from other projects within the approved program (reallocation of funds), or assign transferred equipment or property to a subrecipient not previously listed in the POP, provided the prospective subrecipient is in compliance with all applicable Federal requirements, and the State has no information suggesting otherwise; and
 - (3) Delete or reduce a project by more than \$250,000 or 10 percent of the total POP, whichever is greater.
- c. Revisions Requiring FTA Approval. The State may make the following revisions to an approved POP, and relevant project listings in the TIP and STIP, only after obtaining approval from FTA:
- (1) Allocate more than over \$250,000, or 10 percent of the total of the POP, whichever is greater, for any new capital project;
 - (2) Advance to Category A any prospective subrecipient with serious questions of compliance with Federal requirements remaining unresolved; or
 - (3) Advance to Category A any project for the acquisition of property with a value in excess of \$250,000.
- d. Update of Program of Projects. The most recently updated POP submitted by the State to FTA in its annual program status report or in the course of making revisions will be considered the approved POP, incorporated by reference in the grant agreement. Only the addition of Federal funds or a change in the scope of the approved POP requires amendment of the grant agreement.
7. CERTIFICATIONS AND ASSURANCES. FTA's annual certifications and assurances include basic requirements for Section 5310, JARC, and New Freedom programs, as categories 17, 19, and 20 respectively. 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 Transportation Electronic Award and Management (TEAM) system. This notice indicates which certifications and assurances apply to all grantees 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 the current year notice for a list of required certifications and assurances FTA has issued. Recipients can find the current list in TEAM.

8. PRE-AWARD AUTHORITY. FTA allows grantees to incur costs before grant award in the formula programs. In order for the pre-award costs to be eligible for subsequent reimbursement, the project must have met all FTA statutory, procedural, and contractual requirements, thus must qualify as a “Category A” project in the POP. Reimbursement is subject to the availability of funds and grant award. Specific information is included in FTA’s annual apportionment notice. See Chapter VIII, paragraph 14 for more information on pre-award authority.
9. LABOR PROTECTIONS. Title 49 U.S.C. 5333(b) requires that, as a condition of assistance from FTA, fair and equitable arrangements must be made to protect the interests of employees affected by such assistance. The Department of Labor (DOL) is responsible under Federal law for the administration of Section 5333(b).

Section 5310 gives the Secretary of Transportation the discretion to determine the terms and conditions “necessary and appropriate” for grants under this section. In 1974 the Secretary determined that it was not “necessary or appropriate” to apply the conditions of Section 5333(b) to subrecipients participating in the Section 5310 program. Nevertheless, case-by-case determinations of the applicability of 49 U.S.C. 5333(b) will be made for all transfers of “flex funds” for Section 5310 purposes.

CHAPTER V

COORDINATED PLANNING

1. THE COORDINATED PUBLIC TRANSIT-HUMAN SERVICES TRANSPORTATION PLAN. Federal transit law, as amended by SAFETEA-LU, requires that projects selected for funding under the Section 5310, Job Access and Reverse Commute (JARC), and New Freedom programs be “derived from a locally developed, coordinated public transit-human services transportation plan” and that the plan be “developed through a process that includes representatives of public, private, and non-profit transportation and human services providers and participation by members of the public.” The experiences gained from the efforts of the Federal Interagency Coordinating Council on Access and Mobility (CCAM), and specifically the United We Ride (UWR) Initiative, provide a useful starting point for the development and implementation of the local public transit-human services transportation plan required under the Section 5310, JARC, and New Freedom programs. Many States have established UWR plans that may form a foundation for a coordinated plan that includes the required elements outlined in this chapter and meets the requirements of 49 U.S.C. 5310.
2. DEVELOPMENT OF THE COORDINATED PUBLIC TRANSIT-HUMAN SERVICES TRANSPORTATION PLAN.
 - a. Overview. A locally developed, coordinated public transit-human services transportation plan (“coordinated plan”) 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. Local plans may be developed on a local, regional, or statewide level. The decision as to the boundaries of the local planning areas should be made in consultation with the State and the metropolitan planning organization (MPO), where applicable. The agency leading the planning process is decided locally and does not have to be the State.

A coordinated plan should maximize the programs’ collective coverage by minimizing duplication of services. Further, a coordinated plan shall be developed through a process that includes representatives of public and private and non-profit transportation and human services transportation providers, and participation by members of the public. Members of the public should include representatives of the targeted population(s) including individuals with disabilities, older adults, and people with low incomes. While the plan is only required in communities seeking funding under one or more of the three specified FTA programs, a coordinated plan should also incorporate activities offered under other programs sponsored by Federal, State, and local agencies to greatly strengthen its impact.

- b. Required Elements. Projects shall be derived from a coordinated plan that minimally includes the following elements at a level consistent with available resources and the complexity of the local institutional environment:
- (1) An assessment of available services that identifies current transportation providers (public, private, and non-profit);
 - (2) An assessment of transportation needs for individuals with disabilities, older adults, and people with low incomes. This assessment can be based on the experiences and perceptions of the planning partners or on more sophisticated data collection efforts, and gaps in service (Note: If a community does not intend to seek funding for a particular program (Section 5310, JARC, or New Freedom), then the community is not required to include an assessment of the targeted population in its coordinated plan);
 - (3) Strategies, activities, and/or projects to address the identified gaps between current services and needs, as well as opportunities to achieve efficiencies in service delivery; and
 - (4) Priorities for implementation based on resources (from multiple program sources), time, and feasibility for implementing specific strategies and/or activities identified.

Note: FTA will consider plans developed before the issuance of final program circulars to be an acceptable basis for project selection for FY 2007 if they meet minimum criteria. Plans for FY 2007 should include 1) an assessment of available services; 2) an assessment of needs; and 3) strategies to address gaps for target populations; however, FTA recognizes that initial plans may be less complex in one or more of these elements than a plan developed after the local coordinated planning process is more mature. Addendums to existing plans to include these elements will also be sufficient for FY 2007. Plans must be developed in good faith in coordination with appropriate planning partners and with opportunities for public participation.

- c. Local Flexibility in the Development of a Local Coordinated Public Transit-Human Services Transportation Plan. The decision for determining which agency has the lead for the development and coordination of the planning process should be made at the State, regional, and local levels. FTA recognizes the importance of local flexibility in developing plans for human service transportation. Therefore, the lead agency for the coordinated planning process may be different from the State or the agency that will serve as the designated recipient for JARC and/or New Freedom. Further, FTA recognizes that many communities have conducted assessments of transportation needs and resources regarding individuals with disabilities, older adults, and/or people with low incomes. FTA also recognizes that some communities have taken steps to develop a comprehensive, coordinated, human service transportation plan either independently or through United We Ride efforts. FTA supports communities building on existing

assessments, plans, and action items. As all new Federal requirements must be met, however, communities may need to modify their plans or processes as necessary to meet these requirements. FTA encourages communities to consider inclusion of new partners, new outreach strategies, and new activities related to the targeted programs and populations.

Plans will vary based upon the availability of resources and the existence of populations served under these programs. A rural community may develop its plans based on perceived needs emerging from the collaboration of the planning partners, whereas a large urbanized community may use existing data sources to conduct a more formal analysis to define service gaps and identify strategies for addressing the gaps.

This type of planning is also an eligible activity under three other FTA programs—the Metropolitan Planning (Section 5303), Statewide Planning (Section 5304), and Urbanized Area Formula (Section 5307) programs, all of which may be used to supplement the limited (10 percent) planning and administration funding under this program. Other resources may also be available from other entities to fund coordinated planning activities. All “planning” activities undertaken in urbanized areas, regardless of the funding source, must be included in the Unified Planning Work Program (UPWP) of the applicable MPO.

- d. Tools and Strategies for Developing a Coordinated Plan. States and communities may approach the development of a coordinated plan in different ways. The amount of available time, staff, funding, and other resources should be considered when deciding on specific approaches. The following is a list of potential strategies for consideration:
 - (1) Community planning session. A community may choose to conduct a local planning session with a diverse group of stakeholders in the community. This session would be intended to identify needs based on personal and professional experiences, identify strategies to address the needs, and set priorities based on time, resources, and feasibility for implementation. This process can be done in one meeting or over several sessions with the same group. It is often helpful to identify a facilitator to lead this process. Also, as a means to leverage limited resources and to ensure broad exposure, this could be conducted in cooperation, or coordination, with the applicable metropolitan or statewide planning process.
 - (2) Self-assessment tool. *The Framework for Action: Building the Fully Coordinated Transportation System*, developed by FTA and available at www.unitedweride.gov, helps stakeholders realize a shared perspective and build a roadmap for moving forward together. The self-assessment tool focuses on a series of core elements that are represented in categories of simple diagnostic questions to help groups in States and communities assess their progress toward transportation coordination based on standards of excellence. There is also a *Facilitator’s Guide* that offers detailed advice on how to choose an existing group or construct an ad hoc group. In addition, it describes how to develop elements of

a plan, such as identifying the needs of targeted populations, assessing gaps and duplications in services, and developing strategies to meet needs and coordinate services.

- (3) Focus groups. A community could choose to conduct a series of focus groups within communities that provides opportunity for greater input from a greater number of representatives, including transportation agencies, human service providers, and passengers. This information can be used to inform the needs analysis in the community. Focus groups also create an opportunity to begin an ongoing dialogue with community representatives on key issues, strategies, and plans for implementation.
 - (4) Survey. The community may choose to conduct a survey to evaluate the unmet transportation needs within a community and/or available resources. Surveys can be conducted through mail, e-mail, or in-person interviews. Survey design should consider sampling, data collection strategies, analysis, and projected return rates. Surveys should be designed taking accessibility considerations into account, including alternative formats, access to the Internet, literacy levels, and limited English proficiency.
 - (5) Detailed study and analysis. A community may decide to conduct a complex analysis using inventories, interviews, Geographic Information Systems (GIS) mapping, and other types of research strategies. A decision to conduct this type of analysis should take into account the amount of time and funding resources available, and communities should consider leveraging State and MPO resources for these undertakings.
3. PARTICIPATION IN THE COORDINATED PUBLIC TRANSIT-HUMAN SERVICES TRANSPORTATION PLANNING PROCESS. States shall certify that the coordinated plan was developed through a process that included representatives of public, private, and non-profit transportation and human services providers, and participation by members of the public. Note that the required participants include not only transportation providers but also providers of human services, and members of the public (e.g., individuals with disabilities, older adults, and individuals with low incomes) who can provide insights into local transportation needs. It is important that stakeholders be included in the development and implementation of the local coordinated public transit-human services transportation plan. A planning process in which stakeholders provide their opinions but have no assurance that those opinions will be considered in the outcome does not meet the requirement of “participation.” Explicit consideration and response should be provided to public input received during the development of the coordinated plan. Stakeholders should have reasonable opportunities to be actively involved in the decision-making process at key decision points, including, but not limited to, development of the proposed coordinated plan document. The following possible strategies facilitate appropriate inclusion:

- a. Adequate Outreach to Allow for Participation. Outreach strategies and potential participants will vary from area to area. Potential outreach strategies could include notices or flyers in centers of community activity, newspaper or radio announcements, e-mail lists, website postings, and invitation letters to other government agencies, transportation providers, human services providers, and advocacy groups. Conveners should note that not all potential participants have access to the Internet and they should not rely exclusively on electronic communications. It is useful to allow many ways to participate, including in-person testimony, mail, e-mail, and teleconference. Any public meetings regarding the plan should be held in a location and time where accessible transportation services can be made available and adequately advertised to the general public using techniques such as those listed above. Additionally, interpreters for individuals with hearing impairments and English as a second language and accessible formats (e.g., large print, Braille, electronic versions) should be provided as required by law.
- b. Participants in the Planning Process. Metropolitan and statewide planning under 49 U.S.C. 5303 and 5304 require consultation with an expansive list of stakeholders. There is significant overlap between the lists of stakeholders identified under those provisions (e.g. private providers of transportation, representatives of transit users, and representatives of individuals with disabilities) and the organizations that should be involved in preparation of the coordinated plan.

The projects selected for funding under the Section 5310, JARC, and New Freedom programs must be “derived from a locally developed, coordinated public transit-human services transportation plan” that was “developed through a process that includes representatives of public, private, and non-profit transportation and human services providers and participation by members of the public.” The requirement for developing the local public transit-human services transportation plan is intended to improve services for people with disabilities, older adults, and individuals with low incomes. Therefore, individuals, groups, and organizations representing these target populations should be invited to participate in the coordinated planning process. Consideration should be given to including groups and organizations such as the following in the coordinated planning process if present in the community:

- (1) Transportation partners:
 - (a) Area transportation planning agencies, including MPOs, Councils of Government (COGs), Rural Planning Organizations (RPOs), Regional Councils, Associations of Governments, State Departments of Transportation, and local governments;
 - (b) Public transportation providers (including Americans with Disabilities Act (ADA) paratransit providers and agencies administering the projects funded under FTA urbanized and nonurbanized programs);

- (c) Private transportation providers, including private transportation brokers, taxi operators, van pool providers, school transportation operators, and intercity bus operators;
 - (d) Non-profit transportation providers;
 - (e) Past or current organizations funded under the Section 5310, JARC, and/or the New Freedom programs; and
 - (f) Human service agencies funding, operating, and/or providing access to transportation services.
- (2) Passengers and advocates:
- (a) Existing and potential riders, including both general and targeted population passengers (individuals with disabilities, older adults, and people with low incomes);
 - (b) Protection and advocacy organizations;
 - (c) Representatives from independent living centers; and
 - (d) Advocacy organizations working on behalf of targeted populations.
- (3) Human service partners:
- (a) Agencies that administer health, employment, or other support programs for targeted populations. Examples of such agencies include but are not limited to Departments of Social/Human Services, Employment One-Stop Services, Vocational Rehabilitation, Workforce Investment Boards, Medicaid, Community Action Programs (CAP), Agency on Aging (AoA); Developmental Disability Council, Community Services Board;
 - (b) Non-profit human service provider organizations that serve the targeted populations;
 - (c) Job training and placement agencies;
 - (d) Housing agencies;
 - (e) Health care facilities; and
 - (f) Mental health agencies.
- (4) Other:
- (a) Security and emergency management agencies;

- (b) Tribes and tribal representatives;
- (c) Economic development organizations;
- (d) Faith-based and community-based organizations;
- (e) Representatives of the business community (e.g., employers);
- (f) Appropriate local or State officials and elected officials;
- (g) School districts; and
- (h) Policy analysts or experts.

Note: Participation in the planning process will not bar providers (public or private) from bidding to provide services identified in the coordinated planning process. This planning process differs from the competitive selection process (required for JARC and New Freedom projects), and it differs from the development and issuance of a Request for Proposal (RFP) as described in the common grant rule (49 CFR part 18).

- c. Levels of Participation. The suggested list of participants above does not limit participation by other groups, nor require participation by every group listed. Communities will have different types of participants depending on population and size of community, geographic location, and services provided at the local level. FTA expects that planning participants will have an active role in the development, adoption, and implementation of the plan. Participation may remain low even though a good faith effort is made by the lead agency to involve passengers, representatives of public, private, and non-profit transportation and human services providers, and others. The lead agency convening the coordinated planning process should document the efforts it utilized, such as those suggested above, to solicit involvement.

In addition, Federal, State, regional, and local policy makers, providers, and advocates should consistently engage in outreach efforts that enhance the coordinated process because it is important that all stakeholders identify the opportunities that are available in building a coordinated system. To increase participation at the local levels from human service partners, State Department of Transportation offices are encouraged to work with their partner agencies at the State level to provide information to their constituencies about the importance of partnering with human service transportation programs and the opportunities that are available through building a coordinated system.

- d. Adoption of a Plan. As a part of the local coordinated planning process, the lead agency in consultation with participants should identify the process for adoption of the plan. A strategy for adopting the plan could also be included in the State's State Management Plan (PMP) further described in Chapter VII.

FTA will not formally review and approve plans. The State's grant application (see Appendix A) will document the plan from which each project listed is derived, including the lead agency, the date of adoption of the plan, or other appropriate identifying information. This may be done by citing the section of the plan or page references from which the project is derived.

4. RELATIONSHIP TO OTHER TRANSPORTATION PLANNING PROCESSES.

- a. Relationship Between the Coordinated Planning Process and the Metropolitan and Statewide Transportation Planning Processes. The coordinated plan may either be developed separately from the metropolitan and statewide transportation planning processes and then incorporated into the broader plans, or be developed as a part of the metropolitan and statewide transportation planning processes. If the coordinated plan is not prepared within the broader process, the lead agency for the coordinated plan should ensure coordination and consistency between the coordinated planning process and metropolitan or statewide planning processes. For example, planning assumptions should not be inconsistent.

Projects identified in the coordinated planning process, and selected for FTA funding must be incorporated into both the Transportation Improvement Program (TIP) and Statewide Transportation Improvement Program (STIP) in urbanized areas with populations of 50,000 or more; and incorporated into the STIP for nonurbanized areas under 50,000 in population.

The lead agency developing the coordinated plan should communicate with the relevant MPOs or State planning agencies at an early stage in plan development. States with coordination programs may wish to incorporate the needs and strategies identified in local coordinated plans into statewide coordination plans.

Depending upon the structure established by local decision-makers, the coordinated planning process may or may not become an integral part of the metropolitan or statewide transportation planning processes. State and local officials should consider the fundamental differences in scope, time horizon, and level of detail between the coordinated planning process and the metropolitan and statewide transportation planning processes. However, there are important areas of overlap between the planning processes, as well. Areas of overlap represent opportunities for sharing and leveraging resources between the planning processes for such activities as: (1) needs assessments based on the distribution of targeted populations and locations of employment centers, employment-related activities, community services and activities, medical centers, housing, and other destinations; (2) inventories of transportation providers/resources, levels of utilization, duplication of service and unused capacity; (3) gap analysis; (4) any eligibility restrictions; and (5) opportunities for increased coordination of transportation services. Local communities may choose the method for developing plans that best fits their needs and circumstances.

- b. Relationship Between the Requirement for Public Participation in the Coordinated Plan and the Requirement for Public Participation in Metropolitan and Statewide Transportation Planning. SAFETEA-LU strengthened the public participation requirements for metropolitan and statewide transportation planning. Title 49 U.S.C. 5303(i)(5) and 5304(f)(3), as amended by SAFETEA-LU, require MPOs and States to engage the public and stakeholder groups in preparing transportation plans, TIPs, and STIPs. “Interested parties” include, among others, affected public agencies, private providers of transportation, representatives of users of public transportation, and representatives of older adults and individuals with disabilities.

MPOs and/or States may work with the lead agency developing the coordinated plan to coordinate schedules, agendas, and strategies of the coordinated planning process with metropolitan and statewide planning in order to minimize additional costs and avoid duplication of efforts. MPOs and States must still provide opportunities for participation when planning for transportation related activities beyond the coordinated public transit-human services transportation plan.

- c. Cycle and Duration of the Coordinated Plan. At a minimum, the coordinated plan should follow the update cycles for metropolitan transportation plans (MTPs) (i.e., four years in air quality nonattainment and maintenance areas and five years in air quality attainment areas). However, communities and States may update the coordinated plan to align with the competitive selection process that is required for JARC and New Freedom projects based on needs identified at the local levels. States, MPOs, designated recipients, and public agencies that administer or operate major modes of transportation should set up a cycle that is conducive to and coordinated with the metropolitan and statewide planning processes, to ensure that selected projects are included in the TIP and STIP, to receive funds in a timely manner.
- d. Role of Transportation Providers that Receive FTA Funding Under the Urbanized and Other Than Urbanized Formula Programs in the Coordinated Planning Process. Recipients of Section 5307 and Section 5311 assistance are the “public transit” in the public transit-human services transportation plan and their participation is assumed and expected. Further, 49 U.S.C. 5307(c)(5) requires that, “Each recipient of a grant shall ensure that the proposed program of projects (POP) provides for the coordination of public transportation services ... with transportation services assisted from other United States Government sources.” In addition, 49 U.S.C. 5311(b)(2)(C)(ii) requires the Secretary of DOT to determine that a State’s Section 5311 projects “provide the maximum feasible coordination of public transportation service ... with transportation service assisted by other Federal sources.” Finally, under the Section 5311 program, States are required to expend 15 percent of the amount available to support intercity bus service. FTA expects the coordinated planning process in rural areas to take into account human service needs that require intercity transportation.

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CHAPTER VI

PROGRAM MANAGEMENT AND ADMINISTRATIVE REQUIREMENTS

1. **GENERAL.** The basic grant management requirements for State and local governments are contained in the 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 non-profit 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 rule,” or the “common grant rule.” The provisions of these rules apply except where inconsistent with Federal statutes or authorizing legislation.
2. **PROGRAM ADMINISTRATIVE REQUIREMENTS.** The common rule identifies three areas in which the administrative requirements for State grantees and their subrecipients which are governmental authorities may differ from Federal requirements for local government grantees: equipment management, procurement, and financial management systems. The basic intent of establishing common 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. These three areas are discussed in detail later in this chapter.

Part 18 permits States to pass down State procedures in these three areas to subrecipients that are governmental authorities. Part 19 does not allow States to pass down State procedures to subrecipients that are non-profit 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 non-profit 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 non-profit organizations follow the requirements of part 19.

Unless an issue is specifically addressed in this circular or in other Federal Transit Administration (FTA) guidance specific to the Section 5310 program, States should reference the current FTA Circular 5010.1 “Grant Management Guidelines,” which provides guidance for other FTA programs, for project management issues not unique to Section 5310.

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. CAPITAL RESERVE ACCOUNTS. Recipients of Section 5310 vehicles are permitted to establish capital reserve accounts to replace existing equipment as long as no FTA funds or proceeds from the sale or lease of FTA assisted property are placed in those accounts.

4. EQUIPMENT MANAGEMENT.

- a. General. Under the common grant rule, States may use, manage, and dispose of equipment acquired under a Section 5310 grant in accordance with State laws and procedures. States are free to adopt the procedures established in part 18 for other public entity subrecipients 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 non-profit subrecipients as for public entity subrecipients, so long as those procedures are consistent with 49 CFR part 19.

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

- b. Transfer of Property. Section 5310(h) permits a State to transfer facilities and equipment acquired with assistance under Section 5310 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 5310. 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 5310 service must comply with all the State and Federal requirements for Section 5310 recipients. 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 (POP). The transfer may be shown in the POP for any active grant. It does not have to be in the grant under which the equipment or property was originally funded. The non-add scope code 998-00 is used to reflect transfers of Federal equity in the grant.

In addition, 49 U.S.C. 5334(h)(1) through (3) allows facilities and equipment and other assets (including land) which 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 with no further obligation to the Federal government, if authorized by the Secretary of Transportation (i.e., approved by FTA). Recipients should review the current FTA Circular 5010.1 and contact their FTA regional office for further information.

- 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 elects not to apply to Section 5310 its policies regarding useful life

standards for vehicles, vehicle replacement, or the requirement to use the straight line depreciation method for determining fair market value and FTA reimbursement. Instead, FTA holds States responsible for establishing and implementing their own rolling stock requirements for all categories of vehicles acquired under the Section 5310 program, consistent with the State's standards for equipment purchased with State funds. FTA permits State grantees 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
 - (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.
- d. Disposition. States and their subrecipients should follow State laws and procedures for disposing of equipment. States are not required to return to FTA proceeds from the disposition of equipment, regardless of the fair market value at the time the equipment is sold, but should follow their own procedures regarding the use of proceeds, so long as the proceeds remain in use for public transportation purposes. This applies to all equipment currently in use which was purchased with Section 5310 funds. This blanket disposition instruction satisfies the provision of 49 CFR part 19 requiring private non-profit organizations to seek disposition instructions from the Federal awarding agency.
5. VEHICLE USE. FTA encourages maximum use of vehicles funded under the Section 5310 program. Consistent with the requirements of 49 CFR parts 18 and 19, vehicles are to be used first for program related needs and, beyond the purposes for which a Section 5310 grant are made, to meet other transportation needs of elderly persons and persons with disabilities, to meet other Federal program or project needs, and finally for other local transportation needs. Vehicles may be used:
- a. For Section 5310 Project and Program Purposes. States should consider how best to meet the needs of all older adults and people with disabilities in a particular community in the State's project selection process. The program must provide for maximum feasible coordination with transportation services assisted by other Federal sources. Subrecipients should be encouraged to the extent feasible to also provide service to older adults and people with disabilities not affiliated with their agency, as well as to the general public on an incidental basis if such service does not interfere with transportation services for older adults and people with disabilities. In some situations it may be appropriate to provide Section 5310 assistance to an agency to provide transportation exclusively to its own clients, but even in situations in which it is not feasible for the agency to provide services to those in the community beyond its own clients, that agency must, when practicable, make the vehicle itself available to provide transportation service to other older adults and people with disabilities at times the agency is not using the vehicle for grant-related purposes. The recipient shall use the

vehicle in the project or program for which it was acquired as long as needed, even if the project does not continue to receive Federal funding.

- b. For other Federal Programs or Project Purposes. During the period the vehicle is used to serve the project or program needs for which it was acquired, the subrecipient shall make it available for use on other projects or programs, as long as such other use does not interfere with the service for which the vehicle was originally acquired. First preference for such other use will be given to other projects or programs sponsored by FTA, and second preference will be given to projects or programs sponsored by other Federal agencies. Finally, vehicles may be used by non-Federally funded providers, first to meet the needs of older adults and people with disabilities, and then to serve the transportation needs of the general public on an incidental basis.
 - c. When No Longer Needed for Original Project or Program Purposes. If the original subrecipient no longer needs the vehicle for the purposes for which it was acquired, the State may choose to keep the vehicle in use for Section 5310 program purposes by transferring the vehicle to another subrecipient. The transfer may be shown in the POP for any active grant. It does not have to be in the grant under which the equipment or property was originally funded. Once the vehicle is no longer needed for Section 5310 program purposes, the vehicle may be used first in connection with other FTA-sponsored activities, and then for activities sponsored by other Federal agencies.
 - d. For Meal Delivery. Transit service providers receiving assistance under this section may coordinate and assist in providing meal delivery services 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. The number and size of vehicles applied for under Section 5310 must be determined only by the number of passengers to be transported, not meal delivery capacity. Section 5310 funds may not be used to purchase special vehicles to be used solely for meal delivery or to purchase specialized equipment such as racks or heating or refrigeration units related to meal delivery.
6. LEASING VEHICLES ACQUIRED WITH SECTION 5310 FUNDS. Vehicles acquired under the Section 5310 program may be leased to other entities such as local governmental authorities or agencies, other private non-profit agencies, or private for-profit operators. Under such a lease, the lessee operates the vehicles on behalf of the Section 5310 subrecipient and provides transportation to the subrecipient's clientele as described in the grant application.

The lease between the Section 5310 subrecipient and the lessee contains the terms and conditions that must be met in providing transportation service to older adults and people with disabilities. Because the purpose of the Section 5310 grant is to provide transportation service to older adults and people with disabilities, other uses of the vehicle are permitted only as long as such uses do not interfere with service to older adults and people with disabilities.

The State, being responsible for ensuring that the terms and conditions of the original grant with FTA are met, must agree, in writing, to each lease between the subrecipient and the lessee. Such an agreement should specify that the leased vehicle shall be used to provide transportation service to older adults and people with disabilities, that the vehicle may be used for incidental purposes only after the needs of these individuals have been met, and that the subrecipient or State must retain title to the vehicle.

Grantees may lease any of their assets to others on an incidental basis so long as the lease agreement holds the lessee responsible for compliance with all of the requirements the grantee itself is responsible for. Thus, the lessee must adhere to applicable and relevant terms and conditions of the master agreement in the maintenance and use of the asset. For example, a grantee may not lease its revenue vehicles to a private company to conduct charter operations except to the extent the grantee itself would be able to conduct charter operations.

A grantee may lease its assets to a private entity to operate in public transit service so long as the entity has been selected through a competitive process and so long as the lease agreement obliges the lessee to adhere to all of the applicable and relevant requirements of the master agreement. A finite lease term should be established as well as a clear price and scope of work.

7. TITLE TO VEHICLES. The State is encouraged to either hold title or record a lien against the title to vehicles. This is not mandatory, however. What is mandatory is that the State establish continuing control over the vehicles and accept the responsibility for continued public transit use of the vehicles, and more particularly use for Section 5310 purposes, whether by itself or a subrecipient. If there is a substantial public transit benefit to be gained, such as low-cost, blanket insurance or bulk purchase of fuels or maintenance and supplies at rates cheaper than available to the subrecipient, then the designated recipient should consider retaining title in a governmental entity which can provide for the same and agrees to be bound by all the terms and conditions of the grant.
8. SATISFACTORY CONTINUING CONTROL AND RESPONSIBILITY. When capital equipment or facilities are acquired, built, or improved for use by any entity utilizing FTA funding, provisions must be made to assure satisfactory continuing control of the capital equipment and facilities funded. While the State 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 5310 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.

9. 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 non-Federal 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 may 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 non-profit organizations. For the sake of consistency, the State may choose to use the more detailed FTA requirements included in the current FTA Circular 4220.1 for all subrecipients as part of its State procurement procedures.

In some cases, a State may choose to grant Section 5310 assistance to a subrecipient through an intermediary subrecipient. For example, for public policy reasons, the State might pass funds to a non-profit 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 5310 to receive funds directly from the State and the ultimate subrecipient intends to use those funds to pursue its own transit project to meet the needs of older adults and people with disabilities.

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 that its 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 public agencies and instrumentalities must comply with the following specific Federal procurement requirements:

- (1) States. State procurement practices must, at a minimum, comply with five specific Federal requirements contained in the current FTA Circular 4220.1. These include the following: (1) for rolling stock, a five year limitation on contract period of performance; (2) a requirement for full and open competition; (3) a prohibition against geographic preferences; (4) the use of Brooks Act procedures for procurement of architectural and engineering services if the State has not adopted a statute governing procurement of such services; and (5) 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/ftahelpline/index.htm>.

- (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 Non-profit Organizations. Subrecipients that are private non-profit organizations must comply with FTA procurement requirements contained in the current FTA Circular 4220.1. States are responsible for ensuring that private non-profit subrecipients are aware of and comply with these additional requirements.
- b. Pre-Award and Post-Delivery Reviews. Procurements for vehicles, other than sedans or unmodified vans, must be audited in accordance with 49 CFR part 663, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases." Additional guidance is available in the manual, "Conducting Pre-Award and Post-Delivery Reviews for Bus Procurement" on FTA's website: http://www.fta.dot.gov/laws/leg_reg_5423.html. The regulation requires any recipient or subrecipient that purchases rolling stock for use in revenue service with funds obligated after October 24, 1991, to conduct a pre-award and post delivery review to assure compliance with its bid specifications, Buy America requirements, and Federal motor vehicle safety requirements, and to complete specific certifications. Purchase of more than 20 vehicles for use in areas under 200,000 in population (more than 10, for large urbanized areas), other than unmodified vans or sedans, requires in-plant inspection. In the case of consolidated State procurements on behalf of multiple subrecipients, the in-plant inspection requirement is triggered only if a single subrecipient will receive more than 10 or more than 20 vehicles, depending on area size.
 - c. New Model Bus Testing. All new and modified bus models must be tested at the FTA sponsored test facility in Altoona, Pennsylvania, before FTA funds can be expended for their purchase (49 CFR part 665). This requirement applies to all buses and modified vans procured with FTA funds. It does not apply to unmodified vans, including vans with raised roofs or lifts installed in strict conformance with the original equipment manufacturer modification guidelines. A "new bus model" is defined as a model that has not been used in public transportation service in the United States before October 1, 1988, or a model that has been used in such service but which, after September 30, 1988, is being produced with a major change in configuration or components. A "major change in configuration" is defined as a change which may have a significant impact on vehicle handling and stability or structural integrity. A "major change in

components” is defined as a change in one or more of the vehicle’s major components such as the engine, transmission, suspension, axle, or steering.

Purchasers of new model buses should ensure that the manufacturer has complied with the testing requirement by requesting a copy of the bus testing report from the Altoona Bus Research and Testing Center, 2237 Old Route 220 North, Duncansville, PA 16635. The center’s telephone number is 814–695–3404. Bus testing reports may also be downloaded from the Bus Testing Database at www.altoonabustest.com. This website also offers users the ability to search, filter, display and export selected data from tested buses. Before expending any FTA funds for a new model bus, the purchaser must certify that it has obtained a copy of the official bus testing report. Information in the reports may be useful to operators throughout the vehicle procurement process, particularly when writing specifications.

- d. Buy America. Title 49 U.S.C. 5323(j) provides that, with exceptions, Federal funds may not be obligated for public transportation projects unless steel, iron, and manufactured products used in such projects are produced in the United States. Section 5310 recipients and subrecipients must conform with FTA regulations, 49 CFR part 661, and any amendments thereto. Buy America requirements apply to all purchases, including materials or supplies funded as operating costs, if the purchase exceeds the threshold for small purchases (currently \$100,000).

A manufacturer or supplier of steel, iron, or manufactured goods may be permitted to correct, after bid opening, an incomplete certification or a certification of noncompliance under certain circumstances if submission of the incorrect certification was the result of an inadvertent or clerical error. In addition, 49 U.S.C. 5323(j)(9) allows a party adversely affected by an FTA action the right to seek review.

- e. Disadvantaged Business Enterprises. Recipients shall ensure that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, certify that it has complied with the requirements of 49 CFR part 26.

10. DEBARMENT AND SUSPENSION. The purpose of the Governmentwide Debarment and Suspension (Nonprocurement) regulations (49 CFR part 29) is to ensure that Federal assistance funds are not provided to anyone who has been debarred, suspended, ineligible, or voluntarily excluded from participation in Federally-assisted transactions. The U.S. General Services Administration (GSA) maintains a website, at www.epls.gov, which is updated in real time as changes to the data occur. GSA’s Excluded Parties List System (ELPS) 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. See Chapter VIII, paragraph 16 for more information.

- a. U.S. DOT regulations, "Governmentwide Debarment and Suspension (Nonprocurement)," 49 CFR part 29, require disclosure of the status of persons and entities participating in:
 - (1) Third party contracts or subagreements of \$25,000 or more at any tier;
 - (2) Third party contracts of any amount for Federally required audit services (such as those required under the Single Audit Act Amendments); and
 - (3) Third party contracts or subagreements requiring official DOT approval.
- b. Both participants in third party contracts of any tier and subagreements of any tier are expected to assure the status of persons participating therein.
 - (1) The awarding party must verify that the person is not excluded or disqualified by:
 - (a) Checking the Excluded Parties List System (EPLS) maintained by the General Services Administration (GSA) and available at <http://epls.gov> [strongly recommended by FTA], or
 - (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.
- c. In addition, the recipient and awardees participating in lower tier transactions are required to extend these requirements to their awardees.
 - (1) 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 is presently excluded or disqualified under the these regulations.

11. 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 non-profit 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, this requirement does not apply.

- b. FTA Payment Procedure. 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 U.S. Department of Treasury Regulations, 31 CFR part 205, "Rules and Procedures for Federal-State 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:
- (1) 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. 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 the Federal funds within a reasonable period, to return the 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.
 - (2) Costs incurred and available balances are reported annually on an accrual basis, on the Financial Status Report in FTA's Transportation Electronic Award and Management (TEAM) system.
 - (3) 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.
 - (4) 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.
 - (5) The State shall limit drawdowns to eligible project costs and ensure that subrecipients also follow applicable financial requirements.
- c. 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 DOT and the Comptroller General of the United States for a period of three years from the date the State electronically submits the final Financial Status Report (SF-269A). 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 (ADA), Clean Air Act (CAA), or bicycle projects for which the increased Federal share is claimed should be adequately documented.

12. ALLOWABLE COSTS. Office of Management and Budget (OMB) Circular A-87 (codified at 2 CFR part 225) provides the Federal guidelines for allowable costs for recipients that are governmental authorities. OMB Circular A-122 (codified at 2 CFR part 230) provides comparable guidance for non-profit organizations. Expenses such as indirect costs or payments to a self-insurance fund must be documented appropriately. The restrictions on advertising and public relations in A-87 permit advertising and public relations for "specific purposes necessary to meet the requirements of the Federal award." Similar provisions are also contained in A-122. Transit marketing and promotion are allowable project costs under these provisions, since transit ridership is the ultimate purpose of the Federal grant.
13. CLOSEOUT. States should initiate project closeout with subrecipients within 90 days after all funds are expended and all work activities for the project are completed. The States should similarly initiate program of project (POP) closeout with FTA within 90 days after all work activities for the POP are completed. A final Financial Status Report (SF 269A), final budget, and final POP must be submitted electronically via the TEAM system at the time of closeout.

FTA expects grants awarded for a specific POP to be completed within a reasonable, specified time frame, generally not to exceed two to three years. Although this circular provides the State a great deal of flexibility in developing and subsequently revising programs of projects, it is not FTA's intent that grants be continually revised or amended in ways which will excessively prolong the life of the grant, and consequently result in a large number of active Section 5310 grants. 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.

14. AUDIT. State agencies are responsible for ensuring that audits are performed pursuant to the requirements of OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," resolving audit findings, and bringing problems to FTA's attention. 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.

OMB has issued an audit compliance supplement for FTA grants. It should be noted, however, that while the guidance contained in the supplement may be helpful to auditors, it is specific to the Section 5307, 5309, 5311 programs, and not all of the provisions are applicable to the Section 5310 program. The State may wish to make the current version of FTA Circular 9040.1 and relevant State program guidance available to auditors of its subrecipients.

15. REAL PROPERTY. Real property acquisition standards are included in the current FTA Circular 5010.1, "Grant Management Guidelines" and in Chapter VIII, "Other Provisions." Subrecipients may use the State's staff appraisers to prepare required independent appraisals.
16. CONSTRUCTION MANAGEMENT AND OVERSIGHT. The responsibility for construction management and oversight lies with the State. FTA does not approve design plans for construction projects.
17. REPORTING REQUIREMENTS.
 - a. Annual Program of Projects Status Reports. By October 31 each year, the State should submit to FTA a program status report for each active grant, covering the 12-month period ending September 30. The status reports should be submitted electronically in TEAM and are intended to meet minimal program information needs at the regional and national levels. Reports should include an updated POP for each approved grant which contains active projects. The updated POP should reflect revised project descriptions, changes in projects from one category to another, and adjustments within budget categories. The updated POP can be imported as text into the project summary section of the electronic status report. If revisions to the POP 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 5310 subrecipients.
 - b. Milestone Activity Reports. For activity line items (ALIs) for which milestones were required at the time of grant application (for example, 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. Financial Status Report. The State must submit electronically an annual Financial Status Report for each active grant, for the period ending September 30. For the purpose of this report, funds are considered encumbered when agreements are signed with subrecipients. Reports should be prepared using the accrual method of accounting.
- d. Program Measures. As indicated in Chapter 2, FTA will be capturing overall program measures to be used with the Government Performance Results Act (GPRA) and the Performance Assessment Rating Tool process for the Office of Management and Budget. The following indicators are targeted to capture overarching program information as part of the annual report that each State submits to FTA. The State should submit both quantitative and qualitative information as available on each of the following measures:
 - (1) Gaps in Service Filled. Provision of transportation options that would not otherwise be available for older adults and individuals with disabilities measured in numbers of older adults and people with disabilities afforded mobility they would not have without program support.
 - (2) Ridership. Actual or estimated number of rides (as measured by one-way trips) provided annually for individuals with disabilities and older adults on Section 5310—supported vehicles and services.

The State should ensure that the above information is reported for all recipients and subrecipients of Section 5310 funding in projects selected by the State, including those that were transferred to Section 5307 or 5311 for administration. The State may consolidate information for all projects in the annual report for any open Section 5310 grant awarded to the designated recipient. If Section 5310 funds have been awarded to other direct recipients pursuant to a supplemental agreement with the State, that direct grantee may report on behalf of itself and any subrecipients.

- e. 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 fiscal year, DOT regulations require the State have a DBE program. All subrecipients that receive planning, capital, and/or operating assistance and award prime contracts exceeding \$250,000 in FTA funds in a fiscal year must also have a DBE program. FTA recipients that meet the thresholds above must submit a DBE program goal to FTA for review by the first of August of each year. Detailed requirements are described in Chapter VIII, “Other Provisions.”
18. STATE MANAGEMENT PLAN. The State Management Plan (SMP) is a document that describes the State’s policies and procedures for administering the Section 5310 program. The SMP required for the Section 5310, 5311 (Non-Urbanized Area Formula), Job Access and Reverse Commute (JARC), and New Freedom programs may be included in the same document. All States are required to have an approved SMP on file in the FTA 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 VII, State Management Plan.

19. FTA MANAGEMENT REVIEW. FTA's administration of the Section 5310 program 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 periodic State management reviews every three years or as circumstances warrant. The review includes an inspection of documentation on file at the 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 VII). 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. States may contact the regional office for a current schedule of seminars.

20. OTHER FTA REVIEWS. 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 or other indication of a possible problem. FTA coordinates reviews of subrecipients with the State.

CHAPTER VII

STATE MANAGEMENT PLAN

1. GENERAL. The State Management Plan (SMP) is a document that describes the State's policies and procedures for administering FTA's Section 5310 and 5311 programs, and the State-managed portions of the Job Access and Reverse Commute (JARC) and New Freedom 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. Certain contents of the SMP, such as the project selection criteria, should be coordinated with the statewide transportation plan. The State may include the required SMP for Section 5310, 5311, JARC, and New Freedom programs in a single document or separate documents. 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 5310 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 form 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 5310 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 revise 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 there is no prescribed 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 5310 program. Include a description of any process that exists for establishing long-term goals for providing transportation services to older adults and people with disabilities in 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 chief executive officer of a State to administer the Section 5310 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. Include criteria used to determine which governmental authorities are approved by the State to apply for Section 5310 funding as coordinators of services for older adults and people with disabilities, as well as criteria used for governmental authorities certifying that there are no non-profit organizations readily available in an area to provide Section 5310 service.
- e. Local Share and Local Funding Requirements. Describe the State's policies on provision of local matching share. Include any State programs which provide matching funds for Section 5310.
- f. Project Selection Criteria and Method of Distributing Funds. Describe the State's criteria for selecting projects and distributing funds among various applicants. Whether the State uses a formula for allocation, imposes its own limitations on use of the funds, or uses an entirely discretionary selection process, the plan should explain the policy rationale and the methods used. This description should include the State's procedures for (1) assuring equity of distribution of benefits among eligible groups within the State, as required by Title VI of the Civil Rights Act; (2) assuring that projects were selected from a locally developed coordinated plan; and (3) documenting evidence that the local coordinated plan was developed in cooperation with stakeholders, including individuals with disabilities and older adults utilizing transportation services.
- g. 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 POP for Section 5310. The SMP may

include instructions to potential subrecipients on how to prepare local project applications.

- h. State Administration, Planning and Technical Assistance. Describe how the State uses Section 5310 funds within the 10 percent limitation for administration, planning, and technical assistance. Also describe additional resources including planning, technical, and management assistance the State makes available to local areas and/or subrecipients.
- i. Transfer of Funds. Describe any policy the State has for transferring Section 5310 and/or other apportionments to other FTA program areas.
- j. Private Sector Participation. Describe the State's procedures for providing for maximum feasible participation by private providers of public transportation.
- k. 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 State management plan must include the program-specific Title VI requirements detailed in Chapter VIII, "Other Provisions," including the State's efforts to assist minority applicants and to include subrecipients serving significant minority populations. (Inclusion in the SMP may satisfy certain requirements for one-time submissions in the civil rights areas).
- l. Section 504 and ADA Reporting. Describe the State's method for monitoring subrecipients' compliance with Section 504 and Americans with Disabilities Act of 1990 (ADA) regulations and for processing the plans, reports and certifications submitted to it under the provisions of those regulations.
- m. Program Measures. Describe the State's method for collecting and reporting the data for program measurement described in Chapter II and VI of this circular.
- n. 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.
- o. Other Provisions. Describe the process by which the State complies with other Federal requirements such as environmental protection, Buy America provisions, pre-award and post-delivery reviews, restrictions on lobbying, 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 the FTA 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 documentation requirements. 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 can be approved by FTA and incorporated 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 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 circular and revise the SMP if necessary by November 1, 2007.

CHAPTER VIII

OTHER PROVISIONS

1. INTRODUCTION. In addition to the program-specific requirements and guidance provided in this circular, the Federal Transit Administration (FTA) grantees are held to a number of FTA-specific and other Federal requirements. This chapter attempts to highlight the major requirements and provide 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 "Certifications and Assurances" that grantees must sign annually (via the Transportation Electronic Award and Management (TEAM) system) to establish or renew their funding relationship with FTA. The Master Agreement and the Certifications and Assurances represent the grantees' 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 TEAM website (<http://ftateamweb.fta.dot.gov>), and in the references provided below. Grantees may contact their FTA Regional Counsel for more detail about these requirements.

2. PROCUREMENT RESTRICTIONS. An applicant seeking Federal assistance pursuant to 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. SAFETEA-LU recodified FTA's procurement requirements 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, non-profit organizations must comply with similar regulations in 49 CFR part 19). Provisions of the common rule pertaining to procurement requirements for FTA recipients 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(13) October 1, 2006, as amended) at Section 15, "Procurement," updated annually with the issuance of each new Master Agreement. Finally, FTA has published additional guidance relative to recipients' compliance with third-party procurement requirements within the current FTA Circular 4220.1 and its "Best Practices Procurement Manual." The 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.

3. **PUBLIC HEARING REQUIREMENTS.** The public hearing requirement in 49 U.S.C. 5323(b) for capital projects was amended by SAFETEA-LU. The law now associates more clearly the public involvement and hearing requirements for capital projects with the environmental review required by the National Environmental Policy Act (NEPA) and its implementing regulations. It also broadens the requirement to apply to all capital projects (as defined in 49 U.S.C. 5302). Now, the grant applicant must provide an adequate opportunity for public review and comment on a capital project, and, after providing notice, must hold a public hearing on the project if the project affects significant economic, social, or environmental interests. These requirements will be satisfied through compliance with the NEPA requirements for a public scoping process, public review and comment on NEPA documents, and a public hearing on every draft environmental impact statement (EIS). FTA will also require a public hearing on environmental assessments (EAs) that have a high probability of being elevated to EISs, ensuring that the applicant has complied with the public hearing requirement to include in the environmental record for the project.

Under 49 U.S.C. Section 5323(b), any application for a project that will “substantially affect a community or the public transportation service of a community” shall include a certification to the effect that the applicant has:

- a. Provided an adequate opportunity for public review and comment on the project;
- b. After providing notice, held a public hearing on the project if the project affects significant economic, social or environmental interests;
- c. Considered the economic, social, and environmental effects of the project; and
- d. Found that the project is consistent with official plans for developing the community.

Title 49 U.S.C. 5323(b)(2) further states, “Notice of hearings under this subsection shall include a concise description of the proposed project; and shall be published in a newspaper of general circulation in the geographic area the project will serve.”

Section 5323(b) must be read in concert with Section 5324(b) which states that FTA must review the public comments and hearing transcript to ascertain that an adequate opportunity to present views was given to all parties having a significant economic, social, or environmental interest in the project, and that FTA must make a written finding to this effect.

FTA notes the public hearing requirements of 49 U.S.C. 5323(b) are separate and apart from the requirements for public participation in statewide and metropolitan planning. All capital projects financially supported by FTA are subject to statewide transportation planning requirements and, in metropolitan areas, to metropolitan planning requirements. FTA and FHWA have codified procedures for compliance with the statewide and metropolitan planning statutory mandates—including the mandates for public participation in the development of long-range plans and Transportation Improvement Programs (TIPs)—in the two agencies’ joint planning regulations. (See 23 CFR part 450 and 49 CFR part 613). The practical effect of these statewide and metropolitan planning requirements is to provide the opportunity for the public to be informed about and comment on transportation investment decisions, regardless of whether projects will “substantially” affect a particular community and its public transportation service.

4. ENVIRONMENTAL PROTECTIONS. FTA’s environmental impact regulation (49 CFR part 622, referencing 23 CFR part 771) requires different levels of analysis and documentation for the various types of projects funded through its programs. Most projects and activities funded through the Section 5310 program do not normally involve significant environmental impacts. Such projects are termed “categorical exclusions” (CEs) in FTA’s procedures because they are types of projects that have been categorically excluded from the requirement to prepare an environmental document. In the annual certifications and assurances, the State assures FTA that all the projects in the application are CEs under 23 CFR 771.117(c) unless otherwise noted. The regulation classifies categorically excluded actions and projects into two groups.

The first group, described at 23 CFR Section 771.117(c), contains activities and projects that have very limited or no environmental effects at all such as planning and technical studies, preliminary design work, program administration, operating assistance, and transit vehicle purchases. Because environmental impacts of these activities are either nonexistent or minimal, no environmental documentation is required.

The second group of projects, described at 23 CFR 771.117(d), which normally qualify for a CE, are projects involving more construction and greater potential for off-site impacts. Examples include new construction or expansion of transit terminals, storage and maintenance garages, office facilities, and parking facilities. Experience has shown that these projects can be built and operated without causing significant impacts if they are carefully sited in areas with compatible land use where the primary access routes are adequate to handle the additional transit vehicle traffic. These construction projects may be designated as CEs after FTA approval, but no presumption exists concerning the significance of environmental effects. It is the applicant’s responsibility to provide documentation that clearly demonstrates that the stated conditions or criteria are met and that no significant adverse effects will result. Such documentation is usually narrowly focused on one or a limited number of environmental concerns or questionable areas. Depending on the circumstances, some technical analysis may be required, such as a noise impact assessment or a street capacity analysis; but in most cases, the documentation will focus on consistency with local land-use plans, zoning and any State or local plans or

programs governing the protection and management of environmental resources, such as air quality, water quality and noise abatement. The documentation will provide a written record of coordination with those State and local agencies having jurisdiction or a special interest in some aspect of the project. There is no formal public review for these types of environmental studies. FTA reviews this information and determines if a CE is appropriate. In order to include or advance such a project to Category A, the State must have on file a letter from FTA approving the CE. (See Chapter IV for discussion of the categories of approval.)

For any project which is not found to be a CE, the State may be required to prepare an EA for public comment and FTA review to determine if a finding of no significant impact (FONSI) is appropriate. A project which requires an EA may not be included in Category A before FTA has issued a FONSI for the project. In the unlikely event that significant environmental impacts are identified for a Section 5310 project, an EIS will be required.

A number of environmentally related statutes, orders, and compliance procedures may apply to a given project even if it is properly classified as a CE. The environmental requirements which may come into play for Section 5310 projects include the following: Clean Air Act (CAA) conformity provisions; protection of public parkland, wetland and waterfowl refuges, and historic sites (49 U.S.C. 303); Section 106 of the National Historic Preservation Act (protection of historic and archaeological resources); and Section 404 of the Clean Water Act (Corp of Engineers' permit requirements for dredge and fill activities in "waters of the United States"). FTA policy is to require compliance with these environmentally-related requirements within the overall environmental process. The EA or environmental documentation to support a CE must address these related requirements. Compliance with these requirements must be completed before a construction project is included in Category A.

For purposes of NEPA, FTA's procedures categorically exclude most Section 5310 projects. States should screen potential projects when they are first identified to make an initial determination as to which projects clearly meet the FHWA/FTA criteria for CEs and which projects may require additional documentation. The latter should be coordinated with the FTA regional office early in project development so that any necessary environmental analysis and review will not delay implementation. Any project involving new construction of a facility or substantial rehabilitation of an existing facility must be discussed with FTA to determine the need for information supporting a CE and the applicability of any additional environmental requirements. Early coordination is also necessary to identify those projects for which the State must prepare an EA. If an EA is required, further steps to develop the project will not be authorized (e.g., property acquisition, final design, and construction) until FTA makes a final environmental finding for the project. Any Category B or C project that is not in the list of CEs in 23 CFR 771.117(c) requires environmental clearance from FTA before being advanced to Category A. Chapter IV provides additional information on the categories of approval within the program of projects.

5. CLEAN AIR ACT. The principal Clean Air Act requirement with which FTA-funded projects must comply is the transportation conformity process. The conformity requirements are contained in an Environmental Protection Agency (EPA) regulation (40 CFR part 93) and they apply in areas that currently violate one or more of the national ambient air quality standards (nonattainment areas) and also in areas that once violated the standards but have since been redesignated to attainment status by EPA (so-called 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 MPO. Determining conformity for individual projects is the project sponsor's responsibility. Major transit infrastructure projects, e.g., new fixed guideway projects and extensions, will be analyzed at both the regional and local scale.

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 do not require any analysis. 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 in nonattainment and maintenance areas to establish what the requirements are and how best to satisfy them. The FTA regional office can also provide information on selected provisions of other laws that support clean air objectives—for example, the FHWA's Congestion Mitigation and Air Quality (CMAQ) Improvement Program. Over the years, local transit agencies have benefited greatly from this program as a supplementary source of funding for transit. The CMAQ Program has its own eligibility requirements with which FTA's regional offices are familiar.

6. 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 urban 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.

The most comprehensive FTA document regarding private enterprise requirements is a report titled *Private Enterprise Participation in Transportation Planning and Service Delivery*. The report is available on FTA's website at http://www.fta.dot.gov/documents/Private_Enterprise_Brochure.doc or http://www.fta.dot.gov/laws/leg_reg_180.html.

7. REAL PROPERTY ACQUISITION AND RELOCATION ASSISTANCE. If a grant 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 the U.S. Department of Transportation (DOT) implementing regulations (49 CFR part 24).

The Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-funded Programs regulations, at 49 CFR part 24 implement a government-wide regulation that applies 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 people. Grantees in the process of planning a Federally-assisted project that will require the displacement of people 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. The grantee should also 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 contribution-in-kind property will be valued 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. Grantees should consult their FTA regional office about any property issues.

8. **PRE-AWARD 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 grantee's bid specifications, and Federal Motor Vehicle Safety Standards. The requirement to undertake the pre-award 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.

SAFETEA-LU amended this requirement so that procurements of 20 vehicles or fewer, purchased for serving rural areas and cities of less than 200,000 in population, are not subject to the review procedure. In urbanized areas of greater than 200,000 in population, the reviews are not necessary for a purchase of 10 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 upon the number of buses in a subrecipient's order. That is, for example, although a State may order 30 vehicles, if no subrecipient expects to receive more than 20 of the vehicles (more than 10 for a large urbanized area subrecipient), the State is not required to place an inspector on site. If more than 20 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 more than 20 vehicles. A subrecipient in a large urbanized area must have an inspector on site if either will receive more than 10 vehicles.

In carrying out the reviews, it may be useful to obtain a copy of the manual, "Conducting Pre-Award and Post-Delivery Reviews for Bus Procurements," available on FTA's website at http://www.fta.dot.gov/laws/leg_reg_5423.html. Also, for buses that have been tested at the Altoona Bus Testing Center, the grantee must obtain a copy of the test report.

9. LABOR PROTECTIONS.

- a. Davis-Bacon Act. For FTA programs, 49 U.S.C. Section 5333(a) applies 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 49 U.S.C. 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 in accordance with the Davis-Bacon Act, as amended. The Secretary may not approve any such loan or grant without first obtaining "adequate assurance" that required labor standards would be maintained upon the construction work. This assurance is obtained when recipients accept grant funds and sign FTA's Master Agreement.
- b. Transit Employee Protection. Title 49 U.S.C. Section 5333(b) requires that the interests of employees affected by assistance under most FTA programs shall be protected under arrangements the Secretary of Labor concludes are fair and equitable. Employee protections under Section 5333(b) are not required for the Section 5310 program, except on a case-by-case basis for large transfers of flexible funds to large urbanized areas.

10. 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, creed, national origin, sex, or age, and prohibit discrimination in employment or business opportunity.
- b. 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) The current FTA Circular 4702.1 “Nondiscrimination Guidelines for FTA Recipients.” This document provides recipients and subrecipients with guidance and instructions necessary to comply with the DOT Title VI regulations (49 CFR part 21), the Department’s Order to Address Environmental Justice in Minority Populations and Low-Income Populations (62 FR 18377, Apr. 15, 1997), and U.S. DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons (70 FR 74087, December 14, 2005);
 - (4) U.S. DOT Order to Address Environmental Justice in Minority Populations and Low-Income Populations. This Order 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; and
 - (5) U.S. DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons. This guidance clarifies the responsibilities of recipients of Federal financial assistance from DOT and assists them in fulfilling their responsibilities to limited English proficient (LEP) persons, pursuant to Title VI of the Civil Rights Act of 1964 and implementing regulations.
- c. Equal Employment Opportunity. 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 49 U.S.C. 5332 and any implementing requirements FTA may issue.
- d. 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 implementing DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 CFR part 25, and with any implementing directives that DOT or FTA may promulgate, which prohibit discrimination on the basis of sex.

- e. 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 implementing regulations, which prohibit employment and other discrimination against individuals on the basis of age.

- f. 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 of 1990 (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) U.S. DOT regulations implementing Section 504 and the ADA include 49 CFR parts 27, 37, and 38. Among other provisions, the regulations specify accessibility requirements for the design and construction of new transportation facilities; require that vehicles acquired (with limited exceptions) be accessible to and usable by individuals with disabilities, including individuals using wheelchairs; require public entities, including a private non-profit entity “standing in the shoes” of the State as a subrecipient 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) 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.

- 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 SAFETEA-LU Section 1101(b), 23 U.S.C. 101 note, which requires DOT to ensure that not less than 10 percent of funds authorized for highway and transit financial assistance programs be expended through small business concerns owned and controlled by socially and economically disadvantaged individuals.

- (2) The recipient agrees and assures that it will comply with DOT regulations, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,” 49 CFR part 26. Among other provisions, this regulation requires 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, national origin or disability 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 on request.

11. **DRUG AND ALCOHOL TESTING**. Recipients or subrecipients that receive only Section 5310, Job Access and Reverse Commute (JARC), or New Freedom assistance are not subject to FTA’s Drug and Alcohol testing rules, but must comply with the Federal Motor Carrier Safety Administration (FMCSA) rule for employees who hold Commercial Driver’s Licenses (49 CFR part 382). Section 5310 recipients and subrecipients that also receive funding under one of the covered FTA programs should include any employees funded under Section 5310 projects in their testing program.

An FTA compliant testing program, as required by the receipt of FTA operating or capital funding (5307, 5309, 5311), can be used for Section 5310 employees; there is no need to have two testing programs. Employees of a subrecipient of Section 5310 funds from a designated recipient of another FTA program (such as 5307 or 5311) should also be included in the designated recipient’s testing program.

In the interest of safety of transit operations, recipients of funding from the 5307 Urbanized Area Formula Assistance Program, 5309 Capital Program, 5311 Nonurbanized Area Formula Program, and other programs as determined by the Secretary are required by 49 U.S.C. 5331 to establish drug and alcohol testing programs. 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. Grant recipients identified above must also certify annually that they are in compliance with the DOT and FTA regulations concerning drug and alcohol testing (49 CFR parts 40 and 655). Compliance with the regulations is a condition of FTA funding. Where applicable, recipients of FTA funding are required to comply with Federal Railroad Administration (FRA) regulations and with FMCSA and United States Coast Guard (USCG) regulations concerning drug and alcohol programs.

To assure compliance with the drug and alcohol testing requirements, FTA has promulgated a regulation titled, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations" (49 CFR part 655). The regulation applies to recipients of funds identified above. The regulation requires that FTA recipients follow the drug and alcohol testing procedures found in applicable FTA (49 CFR part 655) and DOT (49 CFR part 40) regulations.

FTA's regulation applies to "employers," defined as "a recipient [of FTA funding] or other entity that provides public transportation service or which performs a safety-sensitive function for such recipient or other entity." The term includes subrecipients, operators, and contractors. The direct recipient of FTA funding, however, remains responsible to FTA both for carrying out the regulations and for ensuring that any person or organization performing a safety-sensitive function on its behalf is in compliance with FTA regulations. Applicability to capital funding is limited to revenue operations; it does not apply to construction phases of funded projects.

FTA's regulation requires testing of employees who perform a safety-sensitive function, which is defined in 49 CFR 655.4. The regulation requires the following six types of testing: pre-employment for drugs (including transfer from a non-safety-sensitive position to a safety-sensitive position); reasonable suspicion; random; post-accident; return-to-duty; and follow-up.

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 alcohol concentration levels and prohibited 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 grantees implement the rules are available on FTA's website (<http://www.fta.dot.gov>—click on "Safety & Security") or by contacting the FTA Office of Safety and Security, FTA Headquarters.

12. 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 anti-drug policy and awareness program. The grant applicant 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 direct 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 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 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 10 days of having received the notice. Within 30 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 through FTA's Office of Safety and Security, FTA Headquarters.

13. 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 sign a certification so stating and must disclose the expenditure of non-Federal 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 non-Federal funds for lobbying, so long as the required disclosures are made.

14. PRE-AWARD AUTHORITY.

- a. General. FTA provides blanket, or automatic, pre-award authority in certain program areas. This pre-award authority allows grantees to incur certain project costs before grant approval and retain their eligibility for subsequent reimbursement after grant approval. The grantee assumes all risk and is responsible for ensuring that all conditions are met to retain eligibility. This automatic pre-award spending authority permits a grantee 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 pre-award authority for design and environmental work on the project. Following authorization of formula funds or appropriation and publication of discretionary projects, pre-award 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), FONSI, or a determination that the project is a categorized exclusion, and included in the Statewide Transportation Improvement Program (STIP).

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.

Pre-award 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) Pre-award 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 pre-award 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 pre-award 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 pre-award 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 pre-award authority applies, the authority expires with the lapsing of the fiscal year funds.
 - (7) When a grant for the project is subsequently awarded, the Financial Status Report, in TEAM-Web, must indicate the use of pre-award authority.
 - (8) More information regarding pre-award authority can be found in FTA's annual apportionment notice published in the *Federal Register*.
15. SAFETY AND SECURITY. FTA's authority in the area of transit safety is set forth in 49 U.S.C. 5329. Under this Section, FTA may conduct investigations into safety hazards and security risks associated with a condition in equipment, a facility, or an operation financed under Chapter 53 in order to establish the nature and extent of the condition and how to eliminate, mitigate, or correct the safety hazard and/or security risk. FTA may also require local jurisdictions to submit a plan for eliminating, mitigating, or correcting the deficiency. Finally, FTA may withhold further financial assistance from any grantee that fails to correct any safety and security deficiency.

FTA has entered into a Memorandum of Understanding 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 will also focus on addressing the needs of rural and small urban providers.

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

Recipients should submit the cost comparison to the appropriate FTA regional office for review before entering into the lease or before approval of the grant which supports the lease. The cost comparison should be retained on file for later review or audit. 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.

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. Recipients should review OMB Circular A-94 for the necessary discount rate to be used in making the cost effectiveness determination.

17. SCHOOL 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 (so called “tripper service”). For the purpose of FTA’s school bus regulation, Headstart is a social service, not a school program. Rules for the Headstart program limit the types of vehicles which may be used to transport children participating in the Headstart program. FTA recipients may operate multi-functional vehicles which meet the safety requirements for school transportation, but may not provide exclusive school service.
18. COMMERCIAL DRIVER’S LICENSE. All drivers of vehicles designed to transport 16 or more passengers, including the driver, must have a commercial driver’s license (CDL). Mechanics that drive the vehicles must also have a CDL.

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APPENDIX A

INSTRUCTIONS FOR PREPARING A GRANT APPLICATION TO FTA

1. PRE-APPLICATION STAGE.

- a. System Access. Applications for Federal Transit Administration (FTA) grant program funds must be submitted electronically through the Transportation Electronic Award and Management (TEAM) system. Applicants must have access to FTA's TEAM system in order to enter a grant. If an applicant does not have access to TEAM, the applicant's representative should contact the appropriate FTA regional office for assistance. Contact information for FTA regional offices can be found in Appendix C.
- 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, all projects included in Section 5310 grant applications shall be derived from a locally developed, coordinated public transit-human service transportation plan, which should be integrated into and consistent with the metropolitan and statewide planning processes. (See Chapter V for more details.)
- c. Environmental Determination. The impact that a proposed FTA assisted project will have on the environment shall be evaluated and documented in accordance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.), before grant application.
- d. Annual Submission of Certifications and Assurances. A grant applicant applying for assistance under the Section 5310 program, or any other FTA grant program, must annually submit certifications and assurances that are applicable to the grant 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 resulting from legislation.
- 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 annual goal, and ADA Paratransit Plan. The FTA Regional Civil Rights Officer must verify that all required Civil Rights submissions are current at the time that the grant application is entered into TEAM. The required documentation must be submitted before the official submission of the grant. A grant applicant should maintain readily available records of FTA approvals of civil rights submissions in the event a question concerning compliance should arise. (See Chapter VIII, "Other Provisions," Section 10, "Civil Rights.")
- f. Transferred Funds. The request for transfer of funds should be made before applying for the grant in TEAM, if the grant application will fund projects using funds

transferred from other programs. This includes funds flexed from the Federal Highway Administration (FHWA). (See Chapter II, “Program Overview,” Section 6, “Relationships to Other Programs.”)

2. APPLICATION STAGE (TEAM INFORMATION). Applicants for Elderly Individuals and Individuals with Disabilities Program funds should submit their grant applications electronically through the TEAM system. TEAM is a database accessible via the Internet (<http://ftateamweb.fta.dot.gov>). The TEAM User Guide provides detailed information on how to access and use FTA’s TEAM system. The user guide covers the creation, submission, award, and execution of a grant application; reporting requirements, grant amendments, budget revisions, and close-out procedures are also addressed. Information that should be entered into TEAM when preparing an application includes:
 - a. Recipient Information. Applicants should enter all required information about their organization in the appropriate fields in TEAM, including: recipient address, union information, Urbanized Area Identification Number (UZA ID), Congressional district(s), Data Universal Numbering System (DUNS) Number, etc. The information shall be current and accurate for each grant and periodically updated as changes occur.
 - b. Project Information. Applicants should identify whether the application is a new grant, a grant amendment, or a budget revision. The project start/end date, program date, EO 12372 review date, metropolitan planning organization (MPO) concurrence date (if applicable), and grant project costs shall be identified.
 - (1) 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 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 (ALI). Project activities shall be sufficiently described to assist the reviewer in determining eligibility under the program, and shall include the page number of the coordinated plan from which the project was derived, as well as the date the plan was adopted.
 - (2) Program DATE and PAGE (STIP/UPWP). All projects for capital and 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) in the most recently approved STIP on which the project(s) contained in the application are listed. The electronic 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.

- c. Budget. The appropriate scopes and activity 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.
- d. Project Milestones. Estimated completion dates for all milestones should be provided; revenue vehicles have particular milestone requirements. If milestones are not pre-populated by the TEAM system for a particular ALI, use the add function to add milestones for that ALI to the grant application.
- e. 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 parts 771.115 and 771.117.) Grant applicants should refer to 23 CFR 771.117(c) and (d) for a listing of the Class II projects. Most Section 5310 funded projects meet the criteria for a categorical exclusion (CE) and require no further action. However, if a project does not clearly meet the criteria for a CE, a grant applicant is strongly encouraged to contact the appropriate FTA regional office for assistance in determining the appropriate environmental review process and level of documentation necessary.
- f. Fleet Status. Fleet status data is not required for Section 5310 grant applications.
- g. Application Submission. Once FTA deems the activities eligible and determines that all pre-application requirements have been satisfied, FTA assigns a grant number. At this point, the grant is ready to be pinned (approved) and submitted in TEAM by the designated recipient/grantee.
- h. Certification of Labor Protective Arrangements. Section 5310 grants are not submitted to the Department of Labor (DOL) for certification.
- i. 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.
- j. 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 pre-award activity require the submission of a Financial Status Report before grant execution.

3. SECTION 5310 APPLICATION CHECKLIST.

<p>Part I—Recipient Information</p> <ol style="list-style-type: none"> 1. Are Annual Certifications & Assurances pinned? 2. Is the Grantee Contact & Other information Complete? 3. Is UZA/Congressional District information entered and accurate? 4. Is union contact information entered and accurate? 5. Has Civil Rights Program Documentation been approved by FTA? 6. Has the applicant’s DUNS Number been entered in the appropriate field? 	<p>Part IV—Budget</p> <ol style="list-style-type: none"> 1. Are activity line item (ALI) codes entered under the appropriate scope codes? 2. Have funding percentages been verified to ensure that Federal funds are not over the allowable share? 3. Does the funding amount entered in the budget match financial information entered in the “Project Information” field? <ol style="list-style-type: none"> a. Federal Funds b. Local Match 4. Does the rolling stock (vehicle) line item contain accurate information such as: <ol style="list-style-type: none"> a. Description b. Fuel Type
<p>Part II—Project Details</p> <ol style="list-style-type: none"> 1 Does the Project Description (including the POP and other attachments) include adequate descriptive information of funded subrecipients and projects? 	<p>5. Details (Extended Budget Description)</p> <ol style="list-style-type: none"> a. Has descriptive information been added in the details section of each ALI that identifies the items being funded using the line item?
<p>Part III—Project Information Have the following fields been completed if applicable?</p> <ol style="list-style-type: none"> 1 New Application or Amendment? 2. Start/End Date? 3. Program Date (STIP date) (UPWP if planning activities included)? 4. Have control totals been entered by the grantee? 5. If pre-award authority is applicable, has “yes” been selected? 6. Has the EO 12372 Review been completed, if applicable? 	<p>6. If the grant contains funding to tribal governments, has a non-add scope been added to the grant that shows the funds allocated to tribes?</p> <p>Part V—Project Milestones</p> <ol style="list-style-type: none"> 1. Are milestones listed for each ALI? (If an ALI does not have milestones, they should be added.) 2. Have estimated completion dates been entered? <p>Part VI—Environmental Findings (NEPA)</p> <ol style="list-style-type: none"> 1. Has an environmental finding been entered for each ALI?

4. ECHO INFORMATION.

- a. Title 49 CFR parts 18 and 19, and 31 CFR part 205, govern payments to recipients for financing operations under Federal grant and other programs. These regulations require that payment to a grantee be limited to the minimum amounts needed and timed so as to be in accord only with the actual, immediate cash requirements of the grantee in carrying out the approved project. For further information regarding cash management procedures, refer to the FTA “ECHO System Users Manual for Grantees.”
<http://www.fta.dot.gov/documents/ECHOWebGranteeUserManual.pdf>.
- b. Instructions for Completing Form:
- (1) Fill in your ECHO Control Number. If this is an Initial ECHO Setup, FTA will assign ECHO Control Number.
 - (2) Check appropriate box(es).
 - (3) Initial Setup.
 - (4) Change in Bank Information.
 - (5) Change in Grantee Information.
 - (6) Fill out information in the appropriate section(s) listed below:
 - (a) Grantee Information Section—Print or type the name of the grantee and address that will receive ECHO/ACH payments. Also include a contact person’s name, date, telephone and fax numbers.
 - (b) 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 (grantee) account title, depositor (grantee) account number, and type of account (type can ONLY be designated as Checking or Saving), signature and title of representative, date and fax number.
 - (7) 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.

ECHO Control Number
(ECN) _____

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

Initial Setup

Info. Change

Grantee 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 grantee's financial institution. Failure to provide the requested information may delay or prevent the receipt of payments through the Treasury ACH Payment System.

GRANTEE 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>400 Seventh Street SW., Room 9422, TBP-24, Washington, DC 20590</i>		
CONTACT PERSON NAME:	202-366-1004	
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: ()

APPENDIX B

SAMPLE SECTION 5310 PROGRAM OF PROJECTS

State: _____

5310: FY ___ Apportionment: \$_____ ; Carryover: _____

Transfer Funds (plus or minus): _____

Total Funds Available: _____

Total number of subrecipients funded in this Program of Projects: _____

LIST OF PROJECTS

Required subrecipient information includes: name of entity receiving the award, amount of award, location of the entity receiving the award and the primary location of performance under the award, including the city and/or county and Congressional District.

CAPITAL, OPERATING, AND PROJECT ADMINISTRATION

(Projects may include reasonable contingencies)

(Subrecipient Types may include: a non-profit organization or a local governmental authority).

Subrecipient Name	Subrecipient Type	Category A ,B, C	Program Description (Include Counties served)	Net Project Cost	Federal Share	Congressional District(s)	Location of Subrecipient	Area(s) Served
(1)								
(2)								
(3)								

SUBTOTAL - OPERATING	_____	_____
SUBTOTAL - CAPITAL	_____	_____
SUBTOTAL - PROGRAM ADMIN	_____	_____

STATE ADMINISTRATION, PLANNING AND TECHNICAL ASSISTANCE

(Not to exceed 10 percent of Section 5310 apportionment and any flex funds transferred to the Section 5310 account may be used to provide a 100 percent Federal share.

Subtotal State Administration (projects funded at 100 percent)	_____	_____
SUBTOTAL STATE ADMINISTRATION	_____	_____
PROGRAM RESERVE (CATEGORY C)	_____	_____

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APPENDIX C

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 Street 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	Atlanta Federal Center Suite 17T50—61 Forsyth Street SW Atlanta, GA 30303 Phone: 404-562-3500 Fax: 404-562-3505
Region V	Illinois, Indiana, Minnesota, Michigan, Ohio, and Wisconsin	200 West Adams Street Suite 320 Chicago, IL 60606 Phone: 312-353-2789 Fax: 312-886-0351
Region VI	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas	819 Taylor Street Room 8A36 Forth Worth, TX 76102 Phone: 817-978-0550 Fax: 817-978-0575
Region VII	Iowa, Kansas, Missouri, and Nebraska	901 Locust, Suite 404 Kansas City, MO 64106 Phone: 816-329-3920 Fax: 816-329-3921

<u>Office</u>	<u>Area Served</u>	<u>Contact Information</u>
Region VIII	Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming	12300 W Dakota Avenue 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 Street 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 Avenue, Suite 3142 Seattle, WA 98174-1002 Phone: 206-220-7954 Fax: 206-220-7959
Lower Manhattan Recovery Office	Lower Manhattan	1 Bowling Green, Room 436 New York, NY 10004 Phone: 212-668-1770 Fax: 212-668-2505
	New York Metropolitan Area	One Bowling Green, Room 428 New York, NY 10004-1415 Telephone: 212-668-2201 Fax: 212-668-2136
Philadelphia Metropolitan Office	Philadelphia Metropolitan Area	1760 Market Street, Suite 510 Philadelphia, PA 19103-4124 Telephone: 215-656-7070 Fax: 215-656-7269
Chicago Metropolitan Office	Chicago Metropolitan Office	200 West Adams Street Suite 2410 (24th floor) 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 / 219-3565 Fax: 202-219-3545

APPENDIX D

TECHNICAL ASSISTANCE IN HUMAN SERVICE TRANSPORTATION

The Department of Transportation (DOT), the Federal Transit Administration (FTA), and partners at the Departments of Health and Human Services, Labor, and Education support a range of technical assistance initiatives for coordinating human service transportation. These programs and centers are charged with providing training, resources, and direct assistance to communities and States interested in enhancing the mobility and transportation options for all citizens, including older adults, individuals with disabilities, and people with low incomes. The following list includes technical assistance and training resources available for various aspects of human service transportation:

National Rural Transportation Assistance Program

C/O American Public Works Association
1401 K Street NW., 11th Floor
Washington, DC 20002
202-408-9542
www.APWA.net

The National Rural Transportation Assistance Program (RTAP) was established by FTA in 1987 to provide a wide range of professional services and products. The National RTAP, administered by the American Public Works Association, provides outreach and training to each State's RTAP and coordinates with other organizations involved in rural transit. The National RTAP also works collaboratively with the Community Transportation Association of America to operate a national toll-free telephone line, a Web page, a national peer-to-peer technical assistance network and various presentations and publications and fulfillment services for National RTAP products.

Project ACTION

1425 K Street, Suite 200
Washington, DC 20005
1-800-659-6428
www.projectaction.org

Easter Seals Project ACTION (Accessible Community Transportation in Our Nation) is a national technical assistance project funded through a cooperative agreement with FTA. The mission of Easter Seals Project ACTION is to encourage and facilitate cooperation between the disability and transportation communities with the goal of achieving universal access through transportation for people with disabilities nationwide.

Easter Seals Project ACTION offers various resources, including a toll-free hotline, website, publications clearinghouse, and quarterly newsletter, as well as training and technical assistance, in an effort to make the Americans with Disabilities Act of 1990 (ADA) work for everyone, everyday.

National Job Links Employment Transportation Initiative

341 G Street NW., 10th Floor
Washington, DC 20005
1-800-527-8279

<http://www.ctaa.org/ntrc/atj/joblinks/index.asp>

The National Joblinks Employment Transportation Initiative, known as Joblinks, is funded by the Departments of Transportation and Labor. Joblinks is a program designed to help communities overcome one of the most significant barriers preventing individuals with low incomes from getting and keeping jobs—transportation. Joblinks has a national peer-to-peer network that links local agencies with experienced practitioners familiar with the human services and workforce development environments and knowledgeable about special client transportation needs.

Through Joblinks, communities can receive access to technical assistance and training specialists who can provide solid problem-solving technical support, particularly in the areas of coordinating client transportation resources and operations, marketing, system start-up and financing, human resource management, and developing accessible services. Job Links also supports an on-line information center that connects you with employment transportation news, resources and ideas. Joblinks is administered by the Community Transportation Association of America.

National Technical Assistance Center in Senior Transportation

1425 K Street, Suite 200
Washington, DC 20005
1-800-659-6428

www.projectaction.org

The National TA Center in Senior Transportation focuses on the transportation needs of older adults. The Center conducts analysis of technical assistance needs assist local communities and States. Through analysis and assessment, the national center also provides technical assistance and training on specific strategies for enhancing senior mobility. The Center focuses on a family of services that includes driving transition, travel training for fixed-route bus, paratransit services, and alternative transportation options including door through door, volunteer, and taxi programs.

Intelligent Transportation System (ITS) Peer to Peer Program

Federal Highway Administration
400 Seventh Street Room 3416 Washington, DC 20590
866-367-7487

www.its.dot.gov

The ITS Peer-to-Peer Program provides assistance through its network of over 120 DOT approved ITS professionals who have planned, implemented and operated ITS in urban and rural areas. Most of the Program's Peers are public sector ITS practitioners.

The Peer to Peer Program delivers short term assistance according to an agency's ITS needs. Assistance may include telephone consultations, off-site document reviews, presentations, and visits to the site. The program continues to assist metropolitan and rural clients to create solutions for a variety of highway, transit, and motor carrier interests. The program offers assistance in virtually all areas of ITS planning, design, deployment and operations.

National Transit Institute

120 Albany Street 7th Floor
New Brunswick, NJ 08901
732-932-1700

www.ntionline.com

The National Transit Institute at Rutgers University was established in 1992 to conduct training and educational programs related to public transportation. Funded by FTA, NTI's mission is to provide training, education, and clearinghouse services in support of public transportation and quality of life in the United States. Training is available to public transportation agencies, metropolitan planning organizations (MPOs), State Departments of Transportation and other agencies providing transportation services.

Transit Cooperative Research Program

C/O American Public Transportation Association
1666 K Street NW., 11th Floor
Washington, DC 20006
202-496-4800

www.TCRPonline.org

The Transportation Cooperative Research Program (TCRP) is your ticket to information central. Practical research that yields near term results can do much to help—by solving operational problems, adoptions useful technologies from related industries and, in general, finding ways for public transportation to be innovative. Funded by DOT and FTA, the program places primary emphasis on putting the results in the hands of organizational and individuals that can use them to solve problems. The information is easily accessible through print, Web documents, CD ROMS and diskettes, and it is free through the American Public Transportation Association's TCRP Dissemination Center.

Multi-State Technical Assistance Program

C/O American Association of Highway and Transportation Officials
444 North Capitol Street NW., Suite 249
Washington, DC 20001
Telephone: 202-624-3625
Fax: 202-624-3625

www.mtap.org

The purpose of Multi-State Technical Assistance Program (MTAP) is to provide a forum through which State-level public transportation agencies can communicate with each other

about Federal transit regulations, grant program management, and technical issues pertaining to everyday administration of public transportation service. MTAP was developed to benefit the member States as well as their Federal program counterparts and local transit operators. Networking among the States is conducted through two annual meetings, peer-to-peer assistance, conference calls, and electronic communication. MTAP is administered by the American Association of State Highway and Transportation Officials (AASHTO).

Appendix E: Relationship between Coordinated Planning and Metropolitan and Statewide Planning (Table)

<p>Coordinated Public Transit - Human Services Transportation Plan</p>	<p>49 U.S.C. 5310 requires preparation of a locally developed, coordinated public transit-human services transportation plan (Coordinated Plan) for all FTA human service transportation programs.</p> <p>The Coordinated Plan is required to be developed by a process that includes representatives of public, private and nonprofit transportation and human services providers and participation by the public. This Plan includes:</p> <ul style="list-style-type: none"> • An assessment of available services that identifies current transportation providers (public, private, and non-profit); • An assessment of transportation needs for individuals with disabilities, older adults, and people with low incomes. • Strategies, activities and/or projects to address the identified gaps between current services and needs, as well as opportunities to improve efficiencies in service delivery; and • Priorities for implementation based on resources (from multiple program sources), time, and feasibility for implementing specific strategies and/or activities identified. <p>The coordinated plan serves as the foundation for the program of projects and should be integrated into the metropolitan and statewide transportation planning processes and documents to demonstrate local policy support and Federal fund eligibility.</p>
<p>Metropolitan Transportation Plan or Statewide Long-Range Transportation Plan</p>	<p>The Metropolitan Transportation Plan (MTP) is the official multimodal transportation plan that is developed, adopted, and updated by the MPO through the metropolitan transportation planning process. The MTP represents the consensus of State and local officials in metropolitan areas of long-range (no less than 20 years) policies and investment priorities for the transportation system. The MTP includes both long-range and short-range program strategies/actions that lead to the development of an integrated intermodal transportation system that facilitates the efficient movement of people and goods.</p> <p>The Statewide Long-Range Transportation Plan is a comparable plan including nonurbanized portions of the State as well as the MTP.</p> <p>The MTP or Statewide Long-Range Transportation Plan has several elements, for example:</p> <ul style="list-style-type: none"> • Identify policies, strategies, and projects for the future; • Determine project demand for transportation services over 20 years; • Focus at the systems level, including roadways, transit, non-motorized transportation, and intermodal connections; • Estimate costs and identify reasonably available financial sources for operation, maintenance, and capital investments; and • Articulate regional land use, development, housing, mobility, and employment goals and plans.

	<p><i>Connections to the Coordinated Plan: Projects or Strategies serving human service transportation needs over the 20-year planning horizon should be referenced in the MTP or Statewide Long-Range Transportation Plan , by direct inclusion or by explicit reference to the Coordinated Plan.</i></p>
<p>Transportation Improvement Program</p>	<p>The Transportation Improvement Program (TIP) is a prioritized, financially constrained four-year program of Federally-supported projects addressing the most immediate implementation priorities from the MTP. The TIP is developed and adopted by the MPO as part of the metropolitan transportation planning process, thereby representing the consensus of State and local decision-makers for allocating funds among the various capital and operating needs of the area.</p> <p>Under Federal law, the TIP:</p> <ul style="list-style-type: none"> • Covers a minimum four-year period of investment and is updated at least every four years; • Is realistic in terms of available funding (known as a fiscally constrained TIP) and is not just a “wish list” of projects; • Is incorporated into the Statewide Transportation Improvement Program (STIP); and • Has projects that are drawn from, or consistent with, the MTP. <p><i>Connections to the Coordinated Plan: All strategies proposed for funding under FTA’s human services transportation programs are required to be listed in the TIP, which may include discreet projects or more aggregated program-level information. For Example: a nonprofit elderly vanpool service could be listed in the TIP if it received a Section 5310 funding Federal grant or the TIP may just reference the amount of Section 5310 funding available to the area on an annual basis.</i></p>

<p>Statewide Transportation Improvement Program</p>	<p>The Statewide Transportation Improvement Program (STIP) is a statewide prioritized, financially constrained four-year program of Federally-supported projects that is consistent with the Long-Range Statewide Transportation Plan, MTPs, and TIPs. Joint approval by FTA and FHWA of the STIP renders the projects, programs, and strategies contained eligible for funding under FTA and FHWA programs.</p> <p>Under Federal law, the STIP:</p> <ul style="list-style-type: none">• Covers a minimum four-year period of investment and is updated at least every four years;• Is realistic in terms of available funding (known as a fiscally constrained STIP) and is not just a “wish list” of projects; and• Contains the projects, strategies, and programs of TIPs from throughout the State, as well as projects, programs, and strategies from non-metropolitan areas. <hr/> <p><i>Connections to the Coordinated Plan: All strategies proposed for funding under FTA’s human services transportation programs are required to be listed in the STIP, which may include discreet projects or more aggregated program-level information. For Example: a nonprofit elderly vanpool service could be listed in the STIP if it received Section 5310 funding Federal grant or the STIP may just reference the amount of Section 5310 funding available to the area on an annual basis. Strategies and/or projects that receive Federal funding are required to be listed in the STIP—verbatim or by reference to—the project listing included in TIPs of metropolitan areas of the State.</i></p>
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<p>Program of Projects</p>	<p>A Program of Projects listing is required by FTA for processing Federal grants under the 5310, 5311, JARC and New Freedom programs.</p> <p>The program of projects (POP) is submitted to FTA for approval with the TEAM grant application. The POP lists the subrecipients and indicates whether they are private non-profit agencies, governmental authorities, or private operators of public transportation services, and in the case of a State application, designates whether they serve urbanized or nonurbanized populations, and identifies any Indian tribal agencies. In addition, the POP includes a brief description of the projects, total project costs and the 5310, 5311 JARC, or New Freedom share for each project. The amount of funds required for planning, technical assistance, and program administration is also laid out in the POP.</p>
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APPENDIX F

REFERENCES

- a. Federal Transit Laws, Title 49, United States Code, Chapter 53.
- b. Federal-aid highway and surface transportation laws, Title 23, United States Code.
- c. Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, (SAFETEA-LU) (Pub. L. 109-59, 119 Stat. 1144, Aug. 10, 2005).
- d. Transportation Equity Act for the 21st Century (TEA-21) (Pub. L. 105-178, 112 Stat. 107, June 9, 1998).
- e. Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Pub. L. 102-240, 105 Stat. 1914, Dec. 18, 1991).
- f. Federal Public Transportation Act of 1978 (Pub. L. 95-599, Nov. 6, 1978).
- g. Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 et seq.
- h. Government Performance Results Act of 1993, as amended (Pub. L. 103-62, 107 Stat. 285, Aug. 3, 1993).
- i. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794.
- j. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d.
- k. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e.
- l. Clean Air Act, as amended, 42 U.S.C. 7401 et seq.
- m. Section 404 of the Clean Water Act, as amended, 33 U.S.C. 1344.
- n. Policy on Lands, Wildlife, and Waterfowl Refuges, and Historic Sites, 49 U.S.C. 303.
- o. Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f.
- p. Internal Revenue Code, Non-profit Organizations, 26 U.S.C. 501.
- q. Lobbying Restrictions, 31 U.S.C. 1352.
- r. Disadvantaged Business Enterprises, 23 U.S.C. 101 note.
- s. Congressional Declaration of Policy Respecting Insular Areas, 48 U.S.C. 1469a.

- t. Program Fraud Civil Remedies Act, 31 U.S.C. 3801 et seq.
- u. Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended, 42 U.S.C. 4601, et seq.
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