



# Greater Hickory MPO

*Greater Hickory Metropolitan Planning Organization*



## 5310 PROGRAM MANAGEMENT PLAN

ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES

## TABLE OF CONTENTS

SECTION I: INTRODUCTION .....	4
A. ReferenceD Documents.....	4
B. FIXING AMERICA’S SURFACE TRANSPORTATION – FAST ACT – 49 USC 5310 PROGRAM.....	4
SECTION II: PROGRAM OVERVIEW .....	5
A. 49 USC §5310 STATUTORY AUTHORITY.....	5
B. §5310 PROGRAM GOALS.....	6
C. PROGRAM MEASURES.....	7
D. RECIPIENT ROLE IN PROGRAM ADMINISTRATION .....	8
E. FTA ROLE IN PROGRAM ADMINISTRATION .....	9
SECTION III: GENERAL PROGRAM INFORMATION .....	9
A. RECIPIENT DESIGNATION.....	9
B. ROLES AND RESPONSIBILITIES .....	10
C. ELIGIBLE PROJECTS .....	14
D. OTHER ELIGIBLE CAPITAL AND OPERATING EXPENSES.....	16
E. FEDERAL SHARE OF COSTS/ LOCAL MATCH.....	19
SECTION IV – COORDINATED PLANNING PROCESS.....	20
A. COORDINATION REQUIREMENTS.....	21
B. PLANNING REQUIREMENTS.....	21
C. PROGRAM OF PROJECTS.....	21
D. CATEGORIES OF APPROVAL.....	22
E. APPROVAL.....	23
F. REVISIONS TO PROGRAM OF PROJECTS.....	23
G. CERTIFICATIONS AND ASSURANCES.....	25
H. PRE-AWARD AUTHORITY.....	25
I. LABOR PROTECTIONS.....	25
SECTION V – PROGRAM MANAGEMENT AND ADMINISTRATIVE REQUIREMENTS .....	26
A. GENERAL.....	26
B. PROGRAM ADMINISTRATIVE REQUIREMENTS.....	26
C. CAPITAL RESERVE ACCOUNTS.....	27
D. EQUIPMENT MANAGEMENT.....	27
E. VEHICLE USE.....	28
F. LEASING VEHICLES ACQUIRED WITH SECTION 5310 FUNDS.....	30
G. TITLE TO VEHICLES.....	30

H. SATISFACTORY CONTINUING CONTROL AND RESPONSIBILITY. ....	31
I. PROCUREMENT.....	31
J. DEBARMENT AND SUSPENSION. ....	34
K. FINANCIAL MANAGEMENT.....	35
L. FTA ELECTRONIC GRANT MANAGEMENT SYSTEM.....	36
M. SYSTEM FOR AWARD MANAGEMENT (SAM) REQUIREMENTS. ....	37
N. DATA UNIVERSAL NUMBERING SYSTEM (DUNS) REGISTRATION REQUIREMENT.....	37
O. SUBRECIPIENT DUNS REQUIREMENT.....	37
P. ELECTRONIC CLEARING HOUSE OPERATING (ECHO) REQUIREMENTS. ....	37
Q. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REQUIREMENT.....	39
R. ALLOWABLE COSTS.....	40
S. CLOSEOUT.....	40
T. AUDIT. ....	41
U. REAL PROPERTY.....	41
V. CONSTRUCTION MANAGEMENT AND OVERSIGHT.....	41
W. REPORTING REQUIREMENTS.....	41
X. MANAGEMENT PLAN. ....	43
Y. FTA MANAGEMENT REVIEW.....	43
Z. OTHER FTA REVIEWS.....	44
SECTION VI – PROGRAM MANAGEMENT PLANS.....	44
A. GENERAL.....	44
B. The DESIGNATED RECIPIENT.....	44
C. PURPOSE.....	45
D. MANAGEMENT PLAN REVIEWS. ....	45
E. MANAGEMENT PLAN CONTENT.....	45
F. MANAGEMENT PLAN REVISIONS.....	47
SECTION VII- OTHER PROVISIONS.....	48
A. INTRODUCTION.....	48
B. PROCUREMENT RESTRICTIONS.....	48
C. ENVIRONMENTAL REVIEWS.....	49
D. ENVIRONMENTAL JUSTICE.....	49
E. CLEAN AIR ACT (CAA).....	50
F. PRIVATE SECTOR PARTICIPATION.....	50
G. REAL PROPERTY ACQUISITION AND RELOCATION ASSISTANCE.....	50

H. LABOR PROTECTIONS.....	51
I. CIVIL RIGHTS.....	51
J. CHARTER BUS SERVICES.....	55
K. DRUG AND ALCOHOL TESTING.....	56
L. DRUG-FREE WORKPLACE. ....	56
M. RESTRICTIONS ON LOBBYING. ....	57
N. PRE-AWARD AUTHORITY. ....	57
O. SAFETY AND SECURITY.....	59
P. LEASE VERSUS BUY CONSIDERATIONS. ....	59
Q. SCHOOL BUS TRANSPORTATION.....	60
R. COMMERCIAL DRIVER’S LICENSE (CDL). ....	60
VIII – APPLICATION PROCESS .....	60
A. APPLICATION CYCLE .....	60
B. PROJECT SELECTION CRITERIA .....	60
C. CREATING A PRIORITIZED CONTINGENCY LIST .....	62
D. AMENDING THE PROGRAM OF PROJECTS.....	63
E. REPORTING.....	63
Appendix A – Definitions .....	64
Appendix B – Acronyms.....	69



## SECTION I: INTRODUCTION

### **A. REFERENCED DOCUMENTS**

CIRCULAR 9070.1G – ENHANCED MOBILITY FOR SENIORS AND PERSONS WITH DISABILITIES

CIRCULAR 4220.1F – THIRD PARTY CONTRACTING FTA MASTER AGREEMENT FFY 2013

AMERICAN WITH DISABILITIES ACT OF 1990, AS AMENDED, 42 U.S.C. 12101 et seq.

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED, 42 U.S.C. 2000d.

CFR part 200, 2 CFR part 1201

FTA CIRCULAR 5010.1E, GRANT MANAGEMENT GUIDELINES

### **B. FIXING AMERICA'S SURFACE TRANSPORTATION – FAST ACT – 49 USC 5310 PROGRAM**

The Federal government, through the Federal Transit Administration (FTA), provides financial assistance to develop new transit systems and improve, maintain and operate existing systems. Financial assistance often comes through the enactment of legislation. The Section 5310 program was established in 1975 to serve the transportation needs of seniors and persons with disabilities where public transit was inadequate or inappropriate. With each new version of transportation legislation, this program was altered.

The passage of FAST (Fixing America's Surface Transportation) Act in December 2015 retained 49 USC § 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Program, plus incorporates program elements previously in the New Freedom program (49 USC § 5317 under SAFTEA-LU). The purpose of 49 USC § 5310 under FAST is to enhance mobility for seniors and persons with disabilities by providing funds for programs to serve the special needs of transit-dependent populations beyond traditional public transportation services and Americans with Disabilities Act (ADA) complementary paratransit services. In addition to types of projects eligible under the traditional 5310 program and former New Freedom program, another eligible activity is public transportation projects that improve access to fixed route service and decrease reliance by individuals with disabilities on complementary paratransit.

The Western Piedmont Regional Transit Authority (WPRTA) serves the Greater Hickory Metropolitan Planning Organization (GHMPO) area with fixed-route and demand response services. This Hickory Urban 5310 Program Management Plan is intended to provide guidance on the elements of the Enhanced Mobility of Seniors and Individuals with Disabilities Program that is outlined in the *Local Coordinated Plan* adopted by the WPRTA Board of Directors on June 28, 2012 and revised in August 2021. Where possible, the *Local Coordinated Plan* is incorporated by reference in this document.

## SECTION II: PROGRAM OVERVIEW

### **A. 49 USC §5310 STATUTORY AUTHORITY**

Title 49 U.S.C. 5310 authorizes the formula assistance program for the Enhanced Mobility of Seniors and Individuals with Disabilities Program and provides formula funding to States and designated recipients (recipients) to improve mobility for seniors and individuals with disabilities. This program provides grant funds for capital and operating expenses to recipients for:

- ☐ Public transportation projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable;
- ☐ Public transportation projects that exceed the requirements of the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 et seq.);
- ☐ Public transportation projects that improve access to fixed route service and decrease reliance on complementary paratransit; and
- ☐ Alternatives to public transportation projects that assist seniors and individuals with disabilities with transportation.

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 designated areas (large urbanized area, small urbanized areas and rural areas). These funds are subject to annual appropriations.

Section 5310(b) provides that of the amounts apportioned to States and designated recipients, not less than 55 percent shall be available for traditional Section 5310 projects – those public transportation capital projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, unavailable or inappropriate. Further, the law provides that a recipient may allocate the funds apportioned to it to:

- a. a private non-profit organization; or a State or local governmental authority that:
  - (1) is approved by a State to coordinate services for seniors and individuals with disabilities; or
  - (2) certifies that there are no non-profit organizations readily available in the area to provide the service.

Section 20009 of FAST addresses Section 5310 funding. This section stipulates that each designated recipient of Enhanced Mobility for Seniors and Individuals with Disabilities funding must distribute those funds to direct recipients and sub-recipients.

The Federal Transit Administration (FTA), who holds the responsibility for national implementation of Title 49 USC §5310, has provided further program guidance in *FTA Circular C 9070.1G*. Guidance in this circular elaborates upon the intent of the program, interprets provisions, and establishes additional requirements for designated recipients, direct recipients, and sub-recipients of Enhanced Mobility of Seniors and Individuals with Disabilities Program funding.

The development of this program management plan is included among these additional requirements. Therefore, the contents of this plan must comply with *FTA Circulars 9070.1G* and satisfy the FTA requirement for its development. Further references in this program management plan to Title 49 USC §5310 shall be the "§5310 program."

## **B. §5310 PROGRAM GOALS**

The goal of the Section 5310 program is "to improve mobility for elderly individuals and individuals with disabilities" throughout the country by removing barriers to transportation services and expanding the transportation mobility options available. 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.

In addition to supporting the general FTA objective, the §5310 program will support the goals and strategic objectives found in the WPRTA-developed *Local Coordinated Plan*. These adopted goals represent a regional strategy to increase personal mobility and travel options for elderly individuals and individuals with disabilities in the GHMPO area.

Before receiving a grant the designated recipient must certify that: 1) the projects selected by the recipient are included in a locally developed, coordinated public transit- human services transportation plan; 2) the plan was developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers and other members of the public; and 3) to the maximum extent feasible, the services funded will be coordinated with transportation services assisted by other Federal departments and agencies, including any transportation activities carried out by a recipient of a grant from the Department of Health and Human Services. FTA C9070.1G page V-1 through V-4. The WPRTA will utilize the Program Management Plan as a guide for local project to:

- ☐ Provide administrative and programmatic guidance to subrecipients.
- ☐ Facilitate the accomplishment of local, state and federal goals regarding public transportation for elderly and disabled.

- Provide an overview for the community to the 5310 program and outline eligible programs, projects and instructions for accessing funding.
- Ensure compliance with federal and state regulations, specifically FTA C 9070.1G.

### **C. PROGRAM MEASURES**

WPRTA will be capturing overall program measures to report to FTA to be used with the Government Performance Results Act (GPRA) and the Performance Assessment Rating Tool process for the Office of Management and Budget (OMB). The following indicators are targeted to capture overarching program information as part of the annual report that the Authority submits to FTA. Until new measures are established, FTA intends to continue to use the following indicators. The Authority is required to submit both quantitative and qualitative information available on each of the following measures with its milestone progress reports.

#### **Traditional Section 5310 Projects**

- (1) Gaps in Service Filled. Provision of transportation options that would not otherwise be available for seniors and individuals with disabilities measured in numbers of seniors and people with disabilities afforded mobility they would not have without program support as a result of traditional Section 5310 projects implemented in the current reporting year.
- (2) Ridership. Actual or estimated number of rides (as measured by one-way trips) provided annually for individuals with disabilities and seniors on Section 5310–supported vehicles and services as a result of traditional Section 5310 projects implemented in the current reporting year.

#### **Other Section 5310 Projects**

- (1) Increases or enhancements related to geographic coverage, service quality, and/or service times that impact availability of transportation services for seniors and individuals with disabilities as a result of other Section 5310 projects implemented in the current reporting year.
- (2) Additions or changes to physical infrastructure (e.g., transportation facilities, sidewalks, etc.), technology, and vehicles that impact availability of transportation services for seniors and individuals with disabilities as a result of other Section 5310 projects implemented in the current reporting year.
- (3) Actual or estimated number of rides (as measured by one-way trips) provided for seniors and individuals with disabilities as a result of other Section 5310 projects implemented in the current reporting year.

The designated recipient should ensure that the above information is reported for all recipients and subrecipients of Section 5310 funding in projects selected by the state or designated recipient. The state or designated recipient 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 designated recipients pursuant to a supplemental agreement with the state or designated recipient, that direct recipient may report on behalf of itself and any subrecipients.

***D. RECIPIENT ROLE IN PROGRAM ADMINISTRATION***

The state agency designated by the governor of the state has the authority and responsibility for administering the Section 5310 program in urbanized areas under 200,000 in population and rural areas. The designated recipient of Section 5310 funds in urbanized areas over 200,000 in population has the authority and responsibility for administering the Section 5310 program in those areas.

The recipient's responsibilities include the following:

- a. Document the state or designated recipient's procedures in a program management plan (PMP);
- b. Plan for future transportation needs, and ensure integration and coordination among diverse transportation modes and providers;
- c. Develop project selection criteria consistent with the coordinated planning process;
- d. Notify eligible local entities of funding availability;
- e. Solicit applications from potential subrecipients;
- f. Determine applicant and project eligibility;
- g. Certify that allocations of funds to subrecipients are made on a fair and equitable basis;
- h. Submit an annual program of projects (POP) and grant application to FTA;
- i. Ensure subrecipients comply with federal requirements;
- j. Certify that all projects are included in a locally developed, coordinated public transit-human service transportation plan developed and approved through a process that included participation by seniors; individuals with disabilities; representatives of public, private, and nonprofit transportation and human service providers; and other members of the public;
- k. Certify that to the maximum extent feasible, services funded under Section 5310 are coordinated with transportation services assisted by other federal departments and agencies;

- l. Ensure that at least 55 percent of the area's apportionment is used for traditional Section 5310 projects carried out by the eligible subrecipients as described in section 5 of Chapter III of this circular; and
- m. Oversee project audit and closeout.

**E. 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;
  - (3) Apportions funds annually to the states and designated recipients;
  - (4) Develops and implements financial management procedures;
  - (5) Initiates and manages program support activities; and
  - (6) Conducts national program reviews and evaluations.
- b. FTA regional offices have the day-to-day responsibility for administration of the Section 5310 program. Regional offices:
  - (1) Review and approve grant applications;
  - (2) Obligate funds, monitor and close grants, and oversee the recipient's implementation of the annual program, including revisions to the POP;
  - (3) Receive state or designated recipient certifications;
  - (4) Review and approve PMPs;
  - (5) Provide technical assistance, advice, and guidance to states and designated recipients as needed; and
  - (6) Perform triennial reviews and state management reviews every three years or as circumstances warrant, and other reviews as necessary.

<b>SECTION III: GENERAL PROGRAM INFORMATION</b>
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**A. RECIPIENT DESIGNATION**

The governor of each state or an official designee must designate a public entity to be the recipient for Section 5310 funds. The designated agency must have the requisite legal, financial, and staffing

capabilities to receive and administer federal funds under this program. In urbanized areas with populations less than 200,000 and in rural areas, the state is the designated recipient. For these areas, the governor of a state designates a state agency responsible for administering the Section 5310 program, and officially notifies the appropriate FTA regional office in writing of that designation. The governor of a state may designate the state agency that receives Rural Area Formula Funds (Section 5311) to be the Section 5310 recipient, or the governor of a state may designate a different agency.

In urbanized areas over 200,000 in population, the recipient charged with administering the Section 5310 program must be officially designated through a process consistent with 49 U.S.C. 5302(4), which defines designated recipient as: an entity designated in accordance with the planning process under Sections 5303 and 5304 by the Governor of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under Section 5336 to urbanized areas of 200,000 or more in population.

The Urbanized Area Formula (Section 5307)–designated recipient provides and coordinates transportation services for the region and is familiar with FTA’s program oversight requirements; therefore, it is appropriate for the designated recipient for the Section 5310 program to be the same as the designated recipient for Section 5307 funds. Alternatively, the Section 5317 (New Freedom program)–designated recipient, the metropolitan planning organization (MPO), state, or another public agency may be a preferred choice based on local circumstances. A state agency may be the designated recipient of Section 5310 funds for a large urbanized area, and all apportioned funds for the large urbanized area must be allocated to agencies within the large urbanized area.

FTA recommends the MPO initiate the designation process as soon as possible in large urbanized areas receiving Section 5310 funds for the first time. The designation letter must be on file with the FTA regional office before grant applications may be submitted for FTA review and funds awarded. Designations remain in effect until changed by the governor by official notice of re-designation to the appropriate FTA regional office.

## **B. ROLES AND RESPONSIBILITIES**

### **1. ROLE OF THE DESIGNATED RECIPIENT**

The designated recipient is responsible for selection of projects, and may, but is not required to, include a competitive selection process. If the designated recipient decides to hold a competitive selection, it may conduct the competitive selection itself or establish alternative arrangements to administer and conduct the competitive selection. For example, the MPO could be the lead agency for the competitive selection, even if it is not the designated recipient. Alternatively, the designated recipient may, through interagency agreement or third party contracts, provide for the administrative management and oversight of the competitive selection process.

The designated recipient will apply to FTA for funding using the designated FTA electronic grant management system on behalf of itself and/or eligible subrecipients for Section 5310

projects within the recipient's area. The designated recipient is responsible for the following actions:

- a. Developing the program of projects (POP). Developing project selection processes, including deciding whether to conduct an areawide (or statewide) competitive selection process and, if so, conducting the competition;
- b. Certifying that all projects are included in a locally developed, coordinated public transit-human service transportation plan (coordinated plan) developed and approved through a process that included participation by seniors; individuals with disabilities; representatives of public, private, and nonprofit transportation and human service providers; and other members of the public. The designated recipient is not directly responsible for developing the coordinated plan, but is responsible for ensuring that the plan from which a selected project was included was developed in compliance with the statutory requirements. An agency or organization other than the designated recipient may take the lead in developing the coordinated plan;
- c. Overseeing the implementation of projects as developed and prioritized in the coordinated plan, including, where not specified in the coordinated plan, selecting entities to carry out projects consistent with procedures approved in the coordinated plan and/or documented in the designated recipient's state or program management plan. In cases where the designated recipient is responsible for allocating funding among localities or regions that have developed and approved individual coordinated plans, the designated recipient shall select projects consistent with a process developed in collaboration with organizations responsible for developing local or regional coordinated plans;
- d. Certifying a fair and equitable distribution of funds to subrecipients, if any;
- e. Managing all aspects of grant distribution and oversight for subrecipients receiving funds under this program; and
- f. Submitting reports as required by FTA.

Funds are obligated based on the annual program of projects included in a grant application. FTA does not conduct project-by-project review and approval of each project. The recipient must ensure that local applicants and project activities are eligible and in compliance with federal requirements 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 recipient monitors local projects; ensures that all program activities are included in a transportation improvement program (TIP) for activities in urbanized areas; ensures that all program activities are included in a statewide transportation improvement program (STIP); and oversees project audits and closeouts. The recipient must certify to FTA annually that the recipient and subrecipients have met or will meet all federal requirements, including all metropolitan and statewide planning requirements. Once FTA has approved the application, funds are available for administration and for allocation to individual subrecipients.

Under Department of Transportation (DOT) 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" or "common rule"), the state



relies on its own laws and procedures in the areas of financial management systems, equipment, and procurement for itself and its public entity subrecipients. For private nonprofit agencies, grant management requirements are contained in 49 CFR part 19, “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non- Profit Organizations.” States may have uniform requirements for all of their subrecipients, both private nonprofit agencies and governmental authorities, as long as such requirements are not inconsistent with part 19. Designated recipients other than states must follow the provisions of 49 CFR part 18; subrecipients follow part 18 if they are public entities and part 19 if they are private nonprofit entities.

## 2. ELIGIBLE DIRECT RECIPIENTS.

Urbanized areas over 200,000, except as noted below, the 5310 designated recipient will apply directly to FTA for a Section 5310 grant for itself and on behalf of subrecipients. As discussed, the designated recipient for Section 5310 in a large UZA over 200,000 in population may or may not be the same agency as the designated recipient for Section 5307 funds.

The coordinated planning and project selection process may result in Section 5310 funds being allocated to a transit agency that is not the designated recipient for the Section 5310 program, but is a designated recipient for Section 5307 funds, and thus, typically receives funds directly from FTA. Instead of entering into a subrecipient relationship with the Section 5310 designated recipient, the selected agency may request that FTA make the Section 5310 grant for the project directly to the transit agency that is a designated recipient for Section 5307. If this occurs, the Section 5310–designated recipient must enter into a supplemental agreement with the Section 5307–designated recipient as part of the application to release the Section 5310–designated recipient from any liability under the grant agreement. Supplemental agreements are provided in the electronic grants management system and must be electronically executed.

## 3 ELIGIBLE SUBRECIPIENTS FOR TRADITIONAL SECTION 5310 PROJECTS.

Section 5310(b) provides that of the amounts apportioned to states and designated recipients, not less than 55 percent shall be available for traditional Section 5310 projects—those public transportation capital projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, unavailable, or inappropriate. Further, the law provides that, for these projects, a recipient may allocate the funds apportioned to it to:

- a. A private nonprofit organization; or
- b. A state or local governmental authority that:
  - (1) is approved by a state to coordinate services for seniors and individuals with disabilities; or

- (2) certifies that there are no nonprofit organizations readily available in the area to provide the service.

These provisions, found at 49 U.S.C. 5310(b)(1) and (b)(2), essentially maintain the status quo for traditional Section 5310 projects. Governmental authorities eligible to apply for Section 5310 funds as “coordinators of services for seniors and individuals 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 the state has identified as the lead agency to coordinate transportation services funded by multiple federal or state human service programs.

#### 4. ELIGIBLE SUBRECIPIENTS FOR OTHER SECTION 5310 PROJECTS.

Eligible subrecipients for other eligible Section 5310 activities include a state or local governmental authority, a private nonprofit organization, or an operator of public transportation that receives a Section 5310 grant indirectly through a recipient.

#### 5. PRIVATE TAXI OPERATORS AS SUBRECIPIENTS.

Private operators of public transportation are eligible subrecipients. The definition of “public transportation” includes “... shared-ride surface transportation services ...” Private taxi companies that provide shared-ride taxi service to the general public on a regular basis are operators of public transportation, and therefore eligible subrecipients. “Shared-ride” means two or more passengers in the same vehicle who are otherwise not traveling together. Similar to general public and ADA demand response service, every trip does not have to be shared-ride in order for a taxi company to be considered a shared-ride operator, but the general nature of the service must include shared rides.

Local (municipal/state) statutes or regulations, or company policy, will generally determine whether a taxi company provides shared-ride or exclusive-ride service. For example, if the local regulation permits the driver to determine whether or not a trip may be shared, the service is not shared-ride. Similarly, if the regulation requires consent of the first passenger to hire a taxi be obtained before the taxi may take on additional riders, the service is not shared-ride. In essence, services that can be reserved for the exclusive use of individuals or private groups, either by the operator or the first passenger’s refusal to permit additional passengers, is exclusive-ride taxi service. A recipient should request documentation from the taxi company to ensure the company is providing shared-ride service prior to award in order to determine whether the company qualifies as a subrecipient.

Taxi companies that provide only exclusive-ride service are not eligible subrecipients; however, they may participate in the Section 5310 program as contractors. Exclusive-ride taxi companies may receive Section 5310 funds to purchase accessible taxis under contract with a state, designated recipient, or eligible subrecipient such as a local government or nonprofit organization. The taxi company may hold title to the accessible vehicle(s) as long as the agreement between the state, designated recipient, or subrecipient and the taxi company is

sufficient to establish satisfactory continuing control. Acceptable means of establishing satisfactory continuing control could include a state, designated recipient, or subrecipient's lien on the vehicle, or contract provisions that require the accessible taxi to be used to provide transportation for seniors and people with disabilities, and that the vehicle may not be removed from service or disposed of prior to the end of its useful life without the express written consent of the FTA recipient or subrecipient.

### **C. ELIGIBLE PROJECTS**

Under FAST / Section 5310:

At least 55% of Enhanced Mobility of Seniors and Individuals with Disabilities program funds must be used on capital projects (Traditional 5310 Projects) that are:

- ☐ Public transportation projects planned, designed and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable. These projects can include the capital cost of contracting for the provision of transit services for seniors and individuals with disabilities and other specialized shared-ride transportation services.

Up to 45% of eligible funds may be used for (Other 5310 Projects):

- ☐ Public transportation projects that exceed the requirements of the ADA (see the WPRTA *Local Coordinated Plan* for these eligible projects).
- ☐ Public transportation projects that improve access to fixed-route service and decrease reliance by individuals with disabilities on complementary paratransit.
- ☐ Alternatives to public transportation that assist seniors and individuals with disabilities.

Existing Section 5310 guidance on eligible capital expenses (found in *FTA C9070.1G*) which include capital expenses as defined in Section 5302(3) to support the provision of transportation services to meet the special needs of elderly persons and persons with disabilities.

Funds for the Section 5310 program are available for capital expenses as defined in Section 5302(3) to support public transportation capital projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, unavailable or inappropriate. Examples of capital expenses that meet the 55 percent requirement include, but are not limited to:

- a. Rolling Stock and Related Activities

- (1) Acquisition of expansion or replacement buses or vans, and related procurement, testing, inspection, and acceptance costs;
  - (3) Vehicle rehabilitation or overhaul;
  - (4) Preventive maintenance, as defined in the National Transit Database (NTD);
  - (5) Radios and communication equipment; and
  - (6) Vehicle wheelchair lifts, ramps, and securement devices.
- b. Passenger Facilities
  - (1) Purchase and installation of benches, shelters and other passenger amenities;
- c. Support Facilities and Equipment
  - (1) Extended warranties that do not exceed the industry standard;
  - (2) Computer hardware and software;
  - (3) Transit related intelligent transportation systems (ITS);
  - (4) Dispatch systems; and
  - (5) Fare collection systems.
- d. 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 recipient must establish criteria for determining cost effectiveness in accordance with FTA regulations , which provides the necessary discount factors and formulas for applying the same;
- e. 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. 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(b)(4) is limited to the Section 5310 program;
- f. Support for 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 seniors and/or individuals with disabilities 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, seniors, 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).

#### **D. OTHER ELIGIBLE CAPITAL AND OPERATING EXPENSES**

- a. Up to 45 percent of a large urbanized area's annual apportionment may be utilized for:

- 1) Public transportation projects (capital and operating) planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate or unavailable,
  - 2) Public transportation projects that exceed the requirements of the ADA,
  - 3) Public transportation projects that improve access to fixed route service and decrease reliance by individuals with disabilities on ADA complimentary paratransit service or
  - 4) Alternatives to public transportation that assist seniors and individuals with disabilities with transportation.
  - 5) Up to 10% of program funds can be used to administer the program, to plan, and to provide technical assistance. Administrative costs (up to 10% of the apportionment, 100% federal share)
- b. Public Transportation Projects that Exceed the Requirements of the ADA. The following activities are examples of eligible projects meeting the definition of public transportation service that is beyond ADA.
- 1) Enhancing paratransit beyond minimum requirements of the ADA. ADA complementary paratransit services can be eligible under the Section 5310 program in several ways:
    - a) Expansion of paratransit service to parameters beyond the three- fourths mile required by ADA;
    - b) Expansion of current hours of operation for ADA paratransit services that are beyond those provided on the fixed-route services;
    - c) The incremental cost of providing same day service;
    - d) The incremental cost (if any) of making door to door service available to all eligible ADA paratransit riders, but not as a reasonable modification for individual riders in an otherwise curb to curb system;
    - e) Enhancement of the level of service by providing escorts or assisting riders through the door of their destination;
    - f) Acquisition of vehicles and equipment designed to accommodate mobility aids that exceed the dimensions and weight ratings established for wheelchairs under the ADA (i.e. larger than 30"x 48" and/or weighing more than 600 pounds) and labor costs of aides to help drivers assist passengers with oversized wheelchairs. This would permit the acquisition of lifts with a larger capacity, as well as modifications to lifts with a 600 pound design load, and the acquisition of heavier-duty vehicles for paratransit and/or demand response service; and
    - g) Installation of additional securement location in public buses beyond what is required by the ADA.

- 2) Feeder services. Feeder service (transit service that provides access) to commuter rail, commuter bus, intercity rail and intercity bus stations, for which complementary paratransit is not required under the ADA
- c. Public Transportation Projects that Improve Accessibility. The following activities are examples of eligible projects that improve accessibility to the fixed route system.
- (1) Making accessibility improvements to transit and intermodal stations not designated as key stations. Improvements for accessibility at existing transportation facilities that are not designated as key stations established under 49 CFR 37.47, 37.51, or 37.53, and that are not required under 49 CFR 37.43 as part of an alteration or renovation to an existing station, so long as the projects are clearly intended to remove barriers that would otherwise have remained. Section 5310 funds are eligible to be used for new accessibility enhancements that remove barriers to individuals with disabilities so they may access greater portions of public transportation systems, such as fixed-route bus service, commuter rail, light rail and rapid rail. This may include:
    - (a) Building an accessible path to a bus stop that is currently inaccessible, including curbcuts, sidewalks, accessible pedestrian signals or other accessible features,
    - (b) Adding an elevator or ramps, detectable warnings, or other accessibility improvements to a non-key station that are not otherwise required under the ADA.
    - (c) Improving signage, or wayfinding technology, or
    - (d) Implementation of other technology improvements that enhance accessibility for people with disabilities including Intelligent Transportation Systems (ITS).
  - (2) Travel training. New training programs for individual users on awareness, knowledge, and skills of public and alternative transportation options available in their communities. This includes travel instruction and travel training services.
- d. Public Transportation Alternatives that Assist Seniors and Individuals with Disabilities with Transportation. The following activities are examples of projects that are eligible public transportation alternatives:
- (1) Purchasing vehicles to support new accessible taxi, ride sharing, and/or vanpooling programs. Section 5310 funds can be used to purchase and operate accessible vehicles for use in taxi, ridesharing and/or van pool programs provided that the vehicle has the capacity to accommodate a passenger who uses a wheelchair as defined under 49 CFR 37.3, at a minimum, while remaining in his/her personal mobility device inside the vehicle, and meeting the same requirements for lifts, ramps and securement systems specified in 49 CFR part 38, subpart B.

- (2) Supporting the administration and expenses related to new voucher programs for transportation services offered by human service providers. This activity is intended to support and supplement existing transportation services by expanding the number of providers available or the number of passengers receiving transportation services. Vouchers can be used as an administrative mechanism for payment of alternative transportation services to supplement available public transportation. The Section 5310 program can provide vouchers to individuals with disabilities to purchase rides, including: (a) mileage reimbursement as part of a volunteer driver program; (b) a taxi trip; or (c) trips provided by a human service agency. Providers of transportation can then submit the voucher for reimbursement to the recipient for payment based on pre-determined rates or contractual arrangements. Transit passes for use on existing fixed route or ADA complementary paratransit service are not eligible. Vouchers are an operational expense which requires a 50/50 (Federal/local) match.
- (3) Supporting volunteer driver and aide programs. Volunteer driver programs are eligible and include support for costs associated with the administration, management of driver recruitment, safety, background checks, scheduling, coordination with passengers, and other related support functions, mileage reimbursement, and insurance associated with volunteer driver programs.

The costs of enhancements to increase capacity of volunteer driver programs are also eligible. FTA encourages communities to offer consideration for utilizing all available funding resources as an integrated part of the design and delivery of any volunteer driver/aide program.

#### **E. FEDERAL SHARE OF COSTS/ LOCAL MATCH**

- a. General. Section 5310 funds may be used to finance capital and operating expenses. The Federal share of eligible capital costs shall be in an amount equal to 80 percent of the net cost of the activity. The Federal share of the eligible operating costs may not exceed 50 percent of the net operating costs of the activity. Direct recipients may use up to 10 percent of their apportionment to support program administrative costs including administration, planning, and technical assistance, which may be funded at 100 percent Federal share.

The local share of eligible capital costs shall be not less than 20 percent of the net cost of the activity, and the local share for eligible operating costs shall be not less than 50 percent of the net operating costs. 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.

Income from contracts to provide human service transportation may be used either to reduce the net project cost (treated as revenue) or to provide local match for Section 5310 operating assistance. In either case, the cost of providing the contract service is included in the total project cost. No FTA program funds can be used as a source of local match for other FTA programs, even when used to contract for service. All sources of local match must be identified and described in the grant application at the time of grant award.

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](http://www.unitedweride.gov).

- b. Exceptions. The Federal share may exceed 80 percent for certain projects related to ADA and Clean Air Act compliance as follows:

- (1) Vehicles. The Federal share is 85 percent for the acquisition of vehicles for purposes of complying with or maintaining compliance with ADA, 42 U.S.C. 12101 et seq or the CAA. A revenue vehicle that complies with 49 CFR part 38 may be funded at 85 percent Federal share.

- (2) Vehicle-Related Equipment and Facilities. The Federal share for project costs for acquiring vehicle-related equipment or facilities (including clean-fuel or alternative-fuel vehicle-related equipment or facilities) for purposes of complying or maintaining compliance with the Clean Air Act (CAA), 42 U.S.C. 7401 et seq), or required by the ADA, is 90 percent. FTA considers vehicle-related equipment to be equipment on and attached to the vehicle.

- c. Sliding Scale –FHWA Transfers Only. 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), are based on the ratio of designated public lands area to the total area of these 14 States. For FHWA Transfers to FTA 5310 for capital projects, the Federal share increases from 80 percent in proportion to the share of public lands in the State. The sliding scale rates in public lands states can be found on ULR <http://www.fhwa.dot.gov/legisregs/directives/notices/n4540-12.htm>.

## SECTION IV – COORDINATED PLANNING PROCESS

#### **A. COORDINATION REQUIREMENTS.**

Title 49 U.S.C. 5310, as authorized by FAST, requires a recipient of Section 5310 funds to certify that projects selected for funding under this program are included in a locally developed, coordinated public transit- human service transportation plan and that the plan was developed and approved through a process that included participation by seniors; individuals with disabilities; representatives of public, private, nonprofit transportation and human service providers; and other members of the public. 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, FTA strongly encourages coordination and consistency between the local coordinated public transit-human service transportation plan and metropolitan or statewide transportation planning processes, as described in 23 CFR part 450 and 49 CFR part 613.

#### **B. PLANNING REQUIREMENTS.**

To be eligible for funding, Section 5310 projects in UZAs 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 FHWA. Projects outside UZAs 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 areawide 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 D for further information on how the various planning processes relate to one another.

#### **C. PROGRAM OF PROJECTS.**

The program of projects (POP) identifies the subrecipients and projects for which the recipient is applying for financial assistance.

The Section 5310 annual POP the recipient submits to FTA for approval must indicate the total number of subrecipients; identify each subrecipient and indicate whether they are governmental authorities or private nonprofit 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, including what type of project it is, 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 POP must indicate whether a project is a capital or an operating expense and clearly identify which projects meet the 55 percent minimum for traditional section 5310 projects. A sample POP is included in Appendix B of the 9070.1G circular. The POP 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 recipient 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 recipient may choose to submit this information as a separate attachment in FTA’s electronic grant management system (TEAM, or a successor thereto) or to include the information in the POP.

#### ***D. 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 or designated recipient’s (recipient) POP may be at the same stage of development, and therefore, not all applications to the recipient may be complete at the time the recipient 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 recipients to separate projects and funds included in its POP into two different categories, depending on whether all federal requirements have been met.

- a. Category A. projects in Category A include those projects that the recipient 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 recipient may start drawing down funds to implement projects in Category A. FTA expects most, if not all, of the projects included in the recipient’s POP to be in this category.
- b. Category B. projects in Category B are those projects the recipient 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. For example, a major capital project other than vehicle purchase in Category B may be a project that has not yet completed the National Environmental Policy Act (NEPA) process or other federal environmental requirements.

Category B may also include contingency projects that may be funded if any selected project is deleted from the program of projects. However, contingency projects should be shown at the zero funding level and not calculated in the total program costs. When the recipient determines that the necessary federal requirements have been satisfied for a project, FTA’s approval of

that project becomes unconditional, and the recipient may advance the project to Category A. Cash drawdowns for that project may commence after the recipient advances it to Category A.

In addition, any Category B project requires issuance of a NEPA record of decision (ROD), a finding of no significant impact (FONSI), or determination that the project meets the conditions of a categorical exclusion (CE) from FTA before being advanced to Category A. Chapter VIII provides additional information on NEPA and other federal environmental laws, regulations, and executive orders. If a recipient can list all its projects in Category A, it would not list any projects in Category B, except contingency projects.

#### **E. 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 recipient requests for both categories. FTA grant award constitutes FTA approval of the recipient'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 recipient may drawdown 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 recipient must ensure that subrecipients meet all federal requirements, and advance the projects to Category A before it may drawdown funds to support those projects.

#### **F. REVISIONS TO PROGRAM OF PROJECTS.**

Prior FTA approval is not required to advance projects from Category B to Category A, or to reallocate funds among projects included in the approved POP, so long as any single change does not exceed 20 percent of the affected project and is consistent with the local coordinated plan from which the projects were selected. Any other changes to the POP require prior FTA approval. The recipient's request for approval should include documentation that the proposed changes in the POP are projects that are included in a locally developed coordinated plan.

If appropriate, revisions to the POP should be accompanied by a budget revision to the grant in the electronic grant management system (TEAM or a successor thereto). The recipient should attach the revised POP (after approval if required) to the project management milestones section in the electronic grant management system. In the annual program status report, the recipient should reference the date that a new POP was attached. The most recently updated program of projects submitted by the recipient to FTA in its quarterly or annual report or in the course of making revisions will be considered the current approved program of projects, incorporated by reference in the grant agreement.

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

a. Revisions Not Requiring Prior FTA Notification or FTA Approval. The recipient may make the following revisions without prior notification to FTA:

- (1) Delete a project from the POP, if the project cost is less than 20 percent of the total of the affected POP;
- (2) Advance projects from Category B to A, provided the prospective subrecipient is in compliance with all applicable federal requirements;
- (3) 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; and
- (4) Add equipment or property transferred from one subrecipient to another subrecipient listed in the POP, regardless of whether the items were originally funded from a different grant.

b. Revisions Requiring Notification to FTA, but not FTA Approval. The recipient may make the following revisions after notifying FTA:

- (1) Create new projects that are less than 20 percent of the total of the POP, so long as the designated recipient has confirmed eligibility and confirms the project was included in the coordinated plan;
- (2) Delete or reduce a project by more than 20 percent of the total POP.

c. Revisions Requiring FTA Approval. The designated recipient may make the following revisions to an approved POP, and relevant project listing in the TIP and STIP, only after obtaining approval from FTA:

- (1) Prior FTA approval is required when the federal share of the grant exceeds \$100,000 and the cumulative amount of project funds to be transferred between or among activities, (including all budget revisions since the last one specifically approved by FTA) exceeds 20 percent;
- (2) Prior FTA approval is required when the revision would transfer funds between operating and capital categories, or between activity line items with different federal matching ratios;
- (3) Prior FTA approval is required if the budget revision would:

- (a) Change the size or physical characteristics of the activities specified in the grant.
- (b) Increase or decrease the number of revenue rolling stock vehicles to be purchased by more than two units.

(4) Advance to Category A any prospective subrecipient with serious questions of compliance with federal requirements remaining unresolved; or

(5) Advance to Category A any project for the acquisition of property with a value in excess of 20 percent of the total value of the POP.

d. Update of Program of Projects. The most recently updated POP submitted by the recipient 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.

#### **G. CERTIFICATIONS AND ASSURANCES.**

FTA's annual certifications and assurances include basic requirements for Section 5310. States and designated recipients should maintain adequate files documenting the basis for all assurances made to FTA.

Each fiscal year, FTA publishes the required certifications and assurances in the Federal Register and updates the certifications and assurances in FTA's electronic grant management system (TEAM or a successor thereto). This notice indicates which certifications and assurances apply to all recipients or to certain kinds of awards, and which are required for grants under specific sections.

Each state and designated recipient 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.

#### **H. PRE-AWARD AUTHORITY.**

FTA allows recipients 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.

#### **I. LABOR PROTECTIONS.**

Title 49 U.S.C. 5333(b) requires that, as a condition of FTA financial assistance, 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.

## **SECTION V – PROGRAM MANAGEMENT AND ADMINISTRATIVE REQUIREMENTS**

### **PROGRAM MANAGEMENT AND ADMINISTRATIVE REQUIREMENTS**

#### **A. 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 nonprofit organizations is “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,” 49 CFR part 19. Parts 18 and 19 are collectively known as the “common rule,” or the “common grant rule.” The provisions of these rules apply except where inconsistent with federal statutes or authorizing legislation.

#### **B. PROGRAM ADMINISTRATIVE REQUIREMENTS.**

The common rule identifies three areas in which the administrative requirements for state recipients and their subrecipients which are governmental authorities may differ from federal requirements for local government designated recipients: 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 private nonprofit organizations. However, as long as the state procedures are not inconsistent with part 19, the state may apply the same procedures for all its subrecipients. The state may use procedures that are more restrictive than part 19, but state procedures may not be more permissive than part 19. The basic intent of part 19 is to establish nationally uniform procedures and requirements for private nonprofit organizations that receive funds from multiple federal agencies.

Designated recipients that are not states must follow the provisions in 49 CFR part 18. Designated recipients must ensure that subrecipients that are public providers of public transportation follow the requirements of part 18, and that subrecipients that are private organizations (whether nonprofit or for-profit) follow the requirements of part 19. Unless an issue is specifically addressed in this

circular or in other FTA guidance specific to the Section 5310 program, recipients should reference the current FTA Circular 5010.1E “Grant Management Guidelines,” which provides guidance for other FTA programs, for project management issues not unique to Section 5310. The recipient 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.

### **C. CAPITAL RESERVE ACCOUNTS.**

Recipients of Section 5310-funded 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.

### **D. 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 the procedures as a guide in developing state procedures for equipment use, management, and disposition, but are not required to do so. States may use the same procedures for private nonprofit 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 designated recipients that are not states, and their subrecipients, are more explicit and can be found in 49 CFR 18.32.
- b. Transfer of Property. Section 5310(g) permits a recipient 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 recipient’s flexibility under the common grant rule to manage equipment and extends the recipient’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) that are no longer needed for the purposes for which they were acquired to be transferred to a local governmental authority to



be used for a public purpose 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 5010.1E and contact their FTA regional office for further information.

c. Vehicle Useful Life and Replacement Standards. The common grant rule gives states flexibility in managing and disposing of equipment. In keeping with the intent of the rule, FTA holds states responsible for establishing and implementing their own rolling stock requirements for all categories of vehicles acquired under the Section 5310 program, consistent with the state's standards for equipment purchased with state funds. FTA permits state recipients to do the following:

- (1) Establish their own minimum useful life standards for vehicles;
- (2) Use their own procedures for determining fair market value; and
- (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.

Designated recipients that are not a state must adhere to the vehicle useful life criteria that are detailed in the current FTA Circular 5010.1E, Grant Management Requirements.

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 that was purchased by states with Section 5310 funds. This blanket disposition instruction satisfies the provision of 49 CFR part 19 requiring private nonprofit organizations to seek disposition instructions from the federal awarding agency.

All other designated recipients and their subrecipients must follow the disposition procedures established in part 18 of the common rule at 49 CFR 18.32(e). Designated recipients are not required to return to FTA proceeds from the disposition of equipment where the fair market value of the per unit item being disposed of is less than \$5,000. If the per unit fair market value exceeds \$5,000, FTA will calculate the amount of proceeds it is owed based on the approved disposition method applied.

#### **E. 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 for which a Section 5310 grant is made and then to meet other federal programs or project needs, providing these uses do not interfere with the project activities originally funded. If the vehicle is no

longer needed for the original program or project, the vehicle may be used in other activities currently or previously supported by a federal agency. Vehicles may be used:

- a. For Section 5310 Project and Program Purposes. Recipients should consider how best to meet the needs of all seniors and people with disabilities in a particular community in the recipient'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 seniors 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 seniors 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 seniors 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 recipient or 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 seniors 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 recipient or subrecipient no longer needs the vehicle for the purposes for which it was acquired, the state or designated recipient may choose to keep the vehicle in use for Section 5310 program purposes by transferring the vehicle to another designated recipient or 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 vehicle 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.

**F. 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 nonprofit 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 seniors and people with disabilities. Because the purpose of the Section 5310 grant is to provide transportation service to seniors and people with disabilities, other uses of the vehicle are permitted only as long as such uses do not interfere with service to seniors and people with disabilities.

The state or designated recipient, 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 seniors 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, state, or designated recipient must retain title to the vehicle.

Recipients 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 recipient itself is responsible for. Thus, the lessee must adhere to applicable and relevant terms and conditions of FTA's master agreement in the maintenance and use of the asset. For example, a recipient may not lease its revenue vehicles to a private company to conduct charter operations except to the extent the recipient itself would be able to conduct charter operations.

A recipient 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 FTA master agreement. A finite lease term should be established as well as a clear price and scope of work.

**G. TITLE TO VEHICLES.**

The recipient 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 recipient 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 the recipient 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 less expensive than available to the subrecipient, then

the recipient should consider retaining title in a governmental entity that can provide for the same and agrees to be bound by all the terms and conditions of the grant.

#### ***H. SATISFACTORY CONTINUING CONTROL AND RESPONSIBILITY.***

When vehicles, capital equipment, or facilities are acquired, built, or improved for use by any entity utilizing FTA funding, provisions must be made to ensure satisfactory continuing control of the vehicles, capital equipment, and facilities funded. While the recipient may delegate these responsibilities to another entity, the recipient is ultimately responsible for compliance with this requirement.

#### ***I. PROCUREMENT.***

- a. General. When procuring property, supplies, equipment, or services with funds from an FTA grant, designated recipients that are not states and their subrecipients must comply with FTA procurement requirements at 49 CFR part 18 and guidance contained in the current FTA Circular 4220.1. States will follow the same policies and procedures used for procurements from nonfederal funds, to the extent permitted by federal statutes and regulations. While the federal threshold for small purchases is currently \$100,000, the state may set a lower threshold for itself and its subrecipients. All governmental authority 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 nonprofit 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 nonprofit organization through a local governmental authority. The arrangement between the first tier and second tier subrecipient is not a third party contract if the ultimate subrecipient would otherwise be eligible under Section 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 seniors and people with disabilities.

Each FTA recipient 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:
    - (a) For rolling stock, a five-year limitation on contract period of performance;
    - (b) A requirement for full and open competition;
    - (c) A prohibition against geographic preferences;
    - (d) 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
    - (e) Inclusion in contracts of all federal clauses required by federal statutes and executive orders and their implementing regulations. These clauses are identified in specific federal regulations cited in FTA's master agreement and incorporated by reference into the grant agreement. Additional technical assistance for third party contracting is available in FTA's "Best Practices Procurement Manual," which can be found online at [http://www.fta.dot.gov/funding/thirdpartyprocurement/grants\\_financing\\_6037.html](http://www.fta.dot.gov/funding/thirdpartyprocurement/grants_financing_6037.html);
  - (2) Subrecipients that are Governmental Authorities. Subrecipients of states that are governmental authorities such as local or Indian tribal governments must comply with the same federal requirements governing state procurements. States are responsible for ensuring that subrecipients are aware of and comply with federal requirements.
  - (3) Subrecipients that are Private Nonprofit Organizations. Subrecipients that are private nonprofit organizations must comply with FTA procurement requirements contained in the current FTA Circular 4220.1. States and designated recipients are responsible for ensuring that private nonprofit subrecipients are aware of and comply with these additional requirements.
  - (4) Designated Recipients that are Not States. Other recipients and their subrecipients must comply with FTA procurement requirements at 49 CFR part 18 and guidance contained in the current FTA Circular 4220.1.
- b. Pre-Award and Postdelivery 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/legislation\\_law/12921\\_5424.html](http://www.fta.dot.gov/legislation_law/12921_5424.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 postdelivery review to ensure compliance with its bid specifications, Buy

America requirements, and federal motor vehicle safety requirements, and to complete specific certifications. Purchase of more than twenty vehicles for use

in areas under 200,000 in population (more than ten, 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 ten or more than twenty vehicles, depending on area size.

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

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

- d. Buy America. Title 49 U.S.C. 5323(j) provides that with limited exceptions, FTA may not obligate funds for a public transportation project unless the steel, iron, and manufactured goods used in the project are produced in the United States. Section 5310 recipients and subrecipients must comply with FTA regulations, 49

CFR part 661. FTA's Buy America requirements at 49 CFR part 661 differ from Federal Buy American regulations at 48 CFR part 25. The former applies to all purchases, including materials or supplies funded as operating costs when funded by FTA, if the purchase exceeds the threshold for small purchases (currently \$100,000), whereas the latter applies to direct federal procurements. FTA strongly advises recipients to review 49 CFR part 661 as well as the current FTA Circular 4220.1, "Third Party Contracting Guidance," before undertaking any procurement. In addition, 49 U.S.C. 5323(j)(9) allows a party adversely affected by an FTA action the right to seek review. FTA has created a Buy America website to provide an overview of these requirements as well as policies, procedures, and letters of interpretation: <http://www.fta.dot.gov/buyamerica>.

- e. Transit Vehicle Manufacturer Disadvantaged Business Enterprises (DBE) Program Requirement. Recipients must ensure that each transit vehicle manufacturer (TVM), as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, certifies that it has complied with the requirements of 49 CFR part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." TVMs must establish—and submit to the FTA Office of Civil Rights for approval—an annual overall percentage goal. In setting this overall

goal, manufacturers should be guided, to the extent applicable, by the principles underlying 49 CFR 26.45. The recipient is obligated to determine, by checking the TVM listing on FTA's website, <http://www.fta.dot.gov/civilrights/12891.html>, or by checking with FTA's Office of Civil Rights at the time of bid opening, that the manufacturer likely to receive the contract is in compliance with part 26. For further guidance, contact the FTA Regional Civil Rights Officer in the FTA regional office in which the recipient is located.

## **J. DEBARMENT AND SUSPENSION.**

The purpose of the DOT Nonprocurement Suspension and Debarment regulations (2 CFR part 1200) is to ensure that federal assistance funds are not provided to anyone who has been debarred, suspended, determined ineligible, or voluntarily excluded from participation in federally assisted transactions. The U.S. General Services Administration's (GSA) System for Award Management (SAM) provides a single comprehensive list of individuals and firms excluded by federal government agencies from receiving federal contracts or federally approved subcontracts and from certain types of federal financial and nonfinancial assistance and benefits. GSA maintains a website, at <https://www.sam.gov>, which is updated in real time as changes to the data occur.

- a. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR part 1200, incorporating OMB's debarment and suspension guidelines, 2 CFR part 180, requires disclosure of the status of persons and entities participating in:
  - (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 ensure the status of persons participating therein.
- c. The awarding party must verify that the person is not excluded or disqualified by:
  - (1) Checking the SAM list of excluded parties maintained by the GSA and available at <https://www.sam.gov> (**Note:** Strongly recommended by FTA);
  - (2) Collecting a certification from the prospective awardee; or
  - (3) Adding a clause or condition to the third party contract or subagreement with that awardee.

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

## **K. FINANCIAL MANAGEMENT**

### **a. Financial Management Systems.**

- (1) Designated recipients that are states. The common grant rule requires a designated recipient that is 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:

- (a) Permit preparation of reports described in this circular and reports necessary to comply with other program and statutory requirements; and
- (b) 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.
- (c) The state may transfer funds between rural and small urbanized areas, or to any are of the state if the state has a statewide program for meeting the objectives of the Section 5310 Program.

Subrecipients that are private entities 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.

- (2) Designated recipients that are not states. The financial management system for designated recipients that are not states must meet the standards set forth in 49 CFR 18.20(b) of the common grant rule. These standards include:

- (a) Financial reporting. Accurate, current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant or subgrant.
- (b) Accounting records. Designated recipients and subrecipients must maintain records that adequately identify the source and application of funds provided for financially assisted activities. These records must contain information pertaining to designated



recipient or subrecipient awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.

- (c) Internal control. Effective control and accountability must be maintained for all designated recipient and subrecipient cash, real and personal property, and other assets. Designated recipients and subrecipients must adequately safeguard all such property and must ensure that it is used solely for authorized purposes.
- (d) Budget control. Actual expenditures or outlays must be compared with budgeted amounts for each grant or subgrant. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.
- (e) Allowable cost. Applicable Office of Management and Budget (OMB) cost principles, FTA program regulations, and the terms of the FTA master agreement and grant agreements will be followed in determining the reasonableness, allowability, and allocability of costs.
- (f) Source documentation. Accounting records must be supported by such source documentation as cancelled checks, paid bills, payroll, time and attendance records, contract and subgrant award documents, etc.
- (g) Cash management. Procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by designated recipients and subrecipients must be followed whenever advance payment procedures are used. Designated recipients must establish reasonable procedures to ensure the receipt of reports on subrecipients' cash balances and cash disbursements in sufficient time to enable them to prepare complete and accurate cash transactions reports to FTA. When advances are made by letter-of-credit or electronic transfer of funds methods, the designated recipient must make drawdowns as close as possible to the time of making disbursements. Designated recipients must monitor cash drawdowns by their subrecipients to ensure that they conform substantially to the same standards of timing and amount as apply to advances to the designated recipients.

#### **L. FTA ELECTRONIC GRANT MANAGEMENT SYSTEM.**

FTA provides a streamlined electronic interface between recipients and FTA that allows complete electronic grant application submission, review, approval, and management of all grants. Among other things, recipients apply for grants, inquire about the status of grants, file the required federal financial status and milestone progress reports, and submit annual certifications and assurances in this system.

The User Guide can be found on FTA's website in the "Grants and Financing" Section under "Apply for and Manage Grants." The U.S. Department of Labor (DOL) receives requests electronically for Transit Employee Protective Certification for projects. DOL will electronically issue the Public Transportation Employee Protective Certifications, entering the certification date and attaching the certification letter into the electronic grant management system.

This system interfaces directly with other systems such as Grants.Gov and the Electronic Clearing House Operations (ECHO) system (see section 16 of this chapter). To access the FTA electronic grant management system, a new applicant must complete the grantee/recipient user access request form for each user and submit that form to the appropriate FTA regional office. The website containing information about how to apply for a grant is: [http://www.fta.dot.gov/funding/grants\\_financing\\_36.html](http://www.fta.dot.gov/funding/grants_financing_36.html).

#### **M. SYSTEM FOR AWARD MANAGEMENT (SAM) REQUIREMENTS.**

The System for Award Management (SAM) is a free website ([www.sam.gov](http://www.sam.gov)) that consolidates federal procurement systems and the Catalog of Federal Domestic Assistance. On July 30, 2012, the Central Contractor Registration (CCR) and the Excluded Parties List System (EPLS) were migrated into SAM. Any organization applying for financial assistance from the federal government must register in SAM and keep its registration current until it submits its final financial report pursuant to the award agreement from FTA or receives its final payment under the project, whichever is later. The recipient must review and update its information in SAM at least annually after the initial registration, and more frequently if required by changes in its information or another provision of a federal or federally assisted agreement, law, regulation, or regulatory guidance.

#### **N. DATA UNIVERSAL NUMBERING SYSTEM (DUNS) REGISTRATION REQUIREMENT.**

Any organization applying for a grant or cooperative agreement from the federal government must have a DUNS number. This is a nine- digit identification number that provides a unique identification for single business entities. Grant applicants that currently do not have a DUNS number can obtain one for free from Dun and Bradstreet ([www.dnb.com](http://www.dnb.com)). It takes about five weeks to receive a DUNS number after the information requested is imputed in the "Instructions on How to Obtain a DUNS Number." As soon as the DUNS number is received, the applicant must inform an FTA regional office and update the grantee profile to include the number.

#### **O. SUBRECIPIENT DUNS REQUIREMENT.**

If it is authorized to make subawards under its agreement with FTA, the recipient must notify potential subrecipients that no entity may receive a subaward from the recipient unless the entity has provided its DUNS number to the recipient. The recipient must not make any subaward to an entity unless the entity has provided its DUNS number to the recipient.

#### **P. ELECTRONIC CLEARING HOUSE OPERATING (ECHO) REQUIREMENTS.**

FTA makes all payments by electronic funds transfer, regardless of the dollar amount involved. Payments are made under the Electronic Clearing House Operation Web (ECHO-Web) system, by means of a control number assigned to the state. The state agrees to comply with the ECHO-Web

requirements contained in the U.S. Department of Treasury regulations, 31 CFR part 205, “Rules and Procedures for Funds Transfers,” and as established by the “Guidelines for Disbursements” set forth in FTA’s ECHO-Web system operations manual. Detailed information about ECHO- Web can be found in Appendix A.

a. In general:

- (1) The recipient may initiate cash drawdowns only when actually needed for immediate disbursements for project purposes. The recipient must disburse the funds drawn down according to their Treasury-State Agreement or 31 CFR part 205, subpart B. The recipient’s access to the ECHO-Web system may be revoked or suspended, or other remedies may be invoked, if the recipient 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 electronic grant management system (Transportation Electronic Award and Management [TEAM] or the successor thereto).
- (3) The recipient 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 recipient may not drawdown 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 recipient shall limit drawdowns to eligible project costs and ensure that subrecipients also follow applicable financial requirements.

- b. 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 recipient must be retained by the recipient (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 Federal Financial Report. 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 recipient’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 ADA, clean air, or bicycle projects for which the increased federal share is claimed should be adequately documented.

**Q. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REQUIREMENT.**

FTA's recipients must report the information about each first tier subaward over \$25,000 (funds passed through to other public agencies or private nonprofit organizations) by the end of the month following the month the state or designated recipient makes any subaward or obligation (not the month after FTA awarded the direct grant). For example if FTA awarded the grant to the state or designated recipient in November, and the recipient did not sign subrecipient agreements until February, the FTA recipient would have until March 31 to report the subaward into Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS). Once the recipient submits an initial report, the recipient can revise it later to add additional subawards as they are made, or to change data previously submitted to reflect adjustments in subawards.

- a. No report is required until the month after the recipient makes a subaward. For example, if a recipient received a Section 5310 grant in November and listed 16 subrecipients in the program of projects but does not consider the subawards to be made until each subrecipient signs a letter of agreement, the recipient would not have to report any subawards in December, but would report them by the end of the month after the subrecipient signs the agreement. On the other hand, if the recipient has a standing agreement with subrecipients and considers the subawards to be made at the time of the FTA grant award, the report would be due in FSRS by the end of the month after FTA obligated the grant to the recipient. If the state or designated recipient allowed subrecipients to use pre- award authority, the deadline would be based on the date of the FTA obligation, since FSRS cannot accept subaward reports before the federal obligation is recorded in the system.
- b. The required data elements in FSRS for each first tier subaward over \$25,000 :
  - (1) Name of entity receiving subaward Doing Business As (DBA) Name;
  - (2) DUNS of the entity and its parent and DUNS+4 (is used to identify specific units within a larger entity);
  - (3) Amount of subaward;
  - (4) Subaward number (Note: assigned by recipient);
  - (5) CFDA number (Note: The same CFDA associated with the FTA award); (6) Place of performance (including congressional district);
  - (7) Total compensation and names of top five executives, if required (Note: Not typically required, with thresholds of \$25 million and 80 percent of total revenue coming from federal funds);

(8) Award title descriptive of the purpose of the funding action; and

(9) Location of the entity (including congressional district)

- c. The amount that is to be reported for each subrecipient is the amount of the total subaward, not payments to date. Payment/drawdown information is not included in the data fields requested.
- d. After the recipient reports the subaward data in FSRS, the information will be published with the original direct award information at <http://www.usaspending.gov>.
- e. Information and training materials about FFATA subaward reporting and FSRS are posted on [www.USASpending.Gov/news](http://www.USASpending.Gov/news). To receive new information on changes and updates to USASpending.gov as soon as it becomes available, subscribe by visiting <http://www.usaspending.gov/> and adding your email address under the “What’s New” section. User manuals and data dictionaries are available on <http://www.fsrs.gov>. Recipients should direct technical questions about the reporting website to the FSRS help desk. FTA regional staff are available to help with FTA grant award information and requirements.

#### **R. ALLOWABLE COSTS.**

CFR part 200 and 2 CFR part 1201 provides the federal guidelines for allowable costs for recipients that are governmental authorities. Expenses such as indirect costs or payments to a self-insurance fund must be documented appropriately.

#### **S. CLOSEOUT.**

Recipients should initiate project closeout with subrecipients within ninety days after all funds are expended and all work activities for the project are completed. Recipients should similarly initiate POP closeout with FTA within ninety days after all work activities for the POP are completed. A final Federal Financial Report, final budget, and final POP must be submitted electronically via the electronic grant management 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 recipients with 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 that 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 recipient 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 recipient along with other currently available funds. Otherwise the deobligated funds lapse and are reappportioned by FTA among states and UZAs in a subsequent year.

**T. AUDIT.**

States and designated recipients 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 States and designated recipients to ensure an annual financial audit of a subrecipient is performed when assistance is provided solely in the form of capital equipment procured directly by the state or designated recipient. Even if the amount of FTA funds the recipient passes to a particular subrecipient does not trigger the requirement for an A-133 audit, the recipient 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 \$750,000). At a minimum recipients should require subrecipients to bring to the attention of the recipient any audit findings relevant to their use of FTA funds.

**U. REAL PROPERTY.**

Real property acquisition standards are included in the current FTA Circular 5010.1E, "Grant Management Guidelines" with a summary in Chapter VIII of this Circular, "Other Provisions." Subrecipients may use the recipient's staff appraisers to prepare required independent appraisals.

**V. CONSTRUCTION MANAGEMENT AND OVERSIGHT.**

The responsibility for construction management and oversight lies with the state or designated recipient. FTA does not approve design plans, specifications, contract terms, etc. for construction projects.

**W. REPORTING REQUIREMENTS.**

- a. Annual Program of Projects Status Reports. By October 31 each year, the state or designated recipient should submit to FTA a program status report for each active grant, covering the twelve-month period ending September 30. Designated recipients in large urbanized areas must submit quarterly status reports. The status reports should be submitted electronically 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 that contains active projects. The updated POP should reflect revised project descriptions, changes in projects from one category to another, and adjustments within budget categories, if applicable. 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 recipient or subrecipients), should be addressed in the annual status report. In addition, the recipient may report notable accomplishments or problems involving Section 5310 subrecipients.

- b. Milestone Progress Reports (MPR). For activity line items for which milestones were required at the time of grant application (e.g., for vehicle procurements, construction projects, and program reserve), the recipient should enter revised milestone dates as part of the annual report. If the estimated completion date for the grant has changed, the revised date should be entered, with an explanation as to why the date has changed.
- c. Federal Financial Report (FFR). The recipient must submit electronically an annual FFR 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 II of this Circular, 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 OMB. The following indicators are targeted to capture overarching program information as part of the annual report that each recipient submits to FTA. Until new measures are established, FTA intends to continue to use the following indicators. Designated recipients and states should submit both quantitative and qualitative information available on each of the following measures with its fourth quarter or annual milestone progress reports.

#### Traditional Section 5310 Projects

- (1) Gaps in Service Filled: Provision of transportation options that would not otherwise be available for seniors and individuals with disabilities, measured in numbers of seniors and individuals with disabilities afforded mobility they would not have without program support as a result of traditional Section 5310 projects implemented in the current reporting year.
- (2) Ridership: Actual or estimated number of rides (as measured by one-way trips) provided annually for seniors or individuals with disabilities on Section 5310 supported vehicles and services as a result of traditional Section 5310 projects implemented in the current reporting year.

#### Other Section 5310 Projects

- (1) Service Improvements: related to geographic coverage, service quality, and/or service times that impact availability of transportation services for seniors and individuals with disabilities as a result of other Section 5310 projects implemented in the current reporting year
- (2) Physical Improvements: Additions or changes to environmental infrastructure (e.g., transportation facilities, sidewalks, etc.), technology, and vehicles that impact availability of transportation services for seniors and individuals with disabilities as a result of other section 5310 projects implemented in the current reporting year.

- (3) Ridership: Actual or estimated number of rides (as measured by one-way trips) provided annually for seniors or individuals with disabilities on Section 5310 supported vehicles and services as a result of other Section 5310 projects implemented in the current reporting year.

Recipients should ensure that the above information is reported in TEAM or its successor thereto for all recipients and subrecipients of Section 5310 funding in projects selected by the state or designated recipient. The recipient may consolidate information for all projects in the annual report for any open Section 5310 grant awarded to the recipient.

- e. National Transit Database: Section 5335(c) requires all FTA grant recipients, including grant recipients under Section 5310, to report an asset inventory or condition assessment conducted by the recipient to the National Transit Database (NTD). This requirement is subject to a rulemaking and recipients will not be required to report until the rulemaking is complete.
- f. Disadvantaged Business Enterprise (DBE) Reports. If the state or designated recipient receives planning, capital, and/or operating assistance and awards prime contracts exceeding \$250,000 in FTA funds in a federal fiscal year, DOT regulations require the state or designated recipient to have a DBE program and establish a DBE goal methodology that applies to all direct and subrecipient contracting activity resulting from those funds. Subrecipients must follow the recipient's established DBE program. FTA recipients that meet the above thresholds must submit a DBE goal to FTA for review by August 1 at three-year intervals, based on a schedule established by FTA. Detailed requirements are described in Chapter VIII, "Other Provisions."

#### **X. MANAGEMENT PLAN.**

Designated recipients that are not states must have a Program Management Plan (PMP). This plan shall adhere to the "Management Plan" provisions in Chapter VII of circular 9070.1G.

#### **Y. 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 site visits. The review assesses the accuracy and adequacy of the PMP, and may result in recommendations for changes to the PMP. 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 FTA 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.

FTA management of other designated recipients will occur through the monitoring of grant progress and activities by FTA regional offices and from the triennial reviews that are conducted by FTA's Office of Oversight on Section 5310 designated recipients that also receive Section 5307 funding. Designated recipients that are not a state or a Section 5307 recipient may be subject to periodic spot reviews that include: an inspection of documentation on file at the regional office, a visit to the designated recipient's offices to examine the procedures used in administering the program, and local site visits. The review assesses the accuracy and adequacy of the PMP, and may result in recommendations for changes to the PMP. A draft report with preliminary findings is presented at an exit conference. The designated recipient has an opportunity to comment on the report and to take corrective actions before a final report is issued.

## **Z. 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 recipient.

# **SECTION VI – PROGRAM MANAGEMENT PLANS**

## **A. GENERAL.**

The program management plan (PMP) is a document that describes the designated recipient's policies and procedures for administering FTA's Section 5310 program in a large urbanized area.

## **B. THE DESIGNATED RECIPIENT**

In a large urbanized area, is required to have an approved PMP on file with the appropriate FTA regional office and to update it regularly to incorporate any changes in program management or new requirements. The recipient shall provide an opportunity for review by stakeholders when it develops a new plan or significantly revises an existing plan. In addition, development of PMPs should be done in the context of local and statewide planning processes. Certain contents of the PMP, such as coordination of service, project selection criteria, and method of distributing funds,

should be coordinated with the statewide transportation improvement program (STIP) and transportation improvement program (TIP).

All public documents developed under a grant from FTA must be prepared and submitted in electronic format.

### ***C. PURPOSE.***

The PMP is intended to facilitate both recipient management and FTA oversight by documenting the state's and designated recipient's procedures and policies for administering the Section 5310 program. The PMP should be a document that is useful to the designated recipient, and subrecipients, as well as to FTA. At a minimum, this document must include the recipient's program objectives, policies, procedures, and administrative requirements, in a form readily accessible to potential subrecipients, recipient staff, FTA, and the public. The PMP's primary purposes are to serve as the basis for FTA to perform recipient-level management reviews of the program, and to provide public information on the recipient's administration of the Section 5310 program. It may also be used internally by the recipient as a program guide for local project applicants. If the recipient has other relevant documentation that provides the same information requested for the PMP, such as an annual application instructions manual, it may be included by reference, as an attachment.

### ***D. MANAGEMENT PLAN REVIEWS.***

FTA conducts oversight reviews to examine each designated recipient's management procedures, and the relationship of the procedures to its management plan. When a state management or triennial review is scheduled, FTA and its contractors examine the PMP on file as part of a desk review at the regional office to determine whether the procedures in the PMP satisfy current requirements. At the site visit, the reviewers document whether or not the designated recipient is following its own stated procedures. Review findings recommendations that the designated recipient revise the PMP to reflect its actual procedures, or that it change its procedures and document them in revisions to the PMP.

### ***E. MANAGEMENT PLAN CONTENT.***

While there is no prescribed format for the PMP, 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 recipient'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 seniors and people with disabilities in the recipient's area, including the process for long range planning and consultation with elected officials.
- b. Roles and Responsibilities. Specify the agencies designated to administer the Section 5310 program. Explain the respective roles and responsibilities of the recipients and their

subdivisions, other recipient agencies or review boards, local governments, private providers, local applicants, and other involved parties.

- c. Coordination. Describe how the recipient coordinates with other agencies at the state or designated recipient level and encourages and enhances coordination at the project level. This could include a description of any recipient-level coordinating mechanisms, legislation, review boards, and state or designated recipient policies that encourage or mandate coordination at the local level.
- d. Eligible Subrecipients. Describe which entities are eligible to apply for funds, and describe any recipient eligibility requirements that are more restrictive than federal eligibility.
- e. Local Share and Local Funding Requirements. Describe any recipient policies on provision of local matching share. Include a description of any programs which provide matching funds for Section 5310.
- f. Project Selection Criteria and Method of Distributing Funds. A competitive selection process is not required; whether or not the recipient engages in a competitive selection process, the recipient should describe the recipient's criteria for selecting projects and distributing funds among various applicants. Whether the recipient uses a formula for allocation, imposes its own limitations on use of the funds, or uses an entirely discretionary selection process, the planshould explain the policy rationale and the methods used. This description should include the recipient's procedures for (1) assuring equity of distribution of benefits among eligible groups within the state or urbanized areas, as required by Title VI of the Civil Rights Act; (2) assuring that projects were included in a locally developed coordinated plan; and (3) documenting evidence that the local coordinated plan was developed and approved in cooperation with stakeholders, including individuals with disabilities and seniors utilizing transportation services.
- g. Annual Program of Projects Development and Approval Process. Describe the recipient'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 PMP may include instructions to potential subrecipients on how to prepare local project applications.
- h. State Administration, Planning, and Technical Assistance. Describe how the recipient 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 recipient makes available to local areas and/or subrecipients.
- i. Transfer of Funds. Describe any policy the state has for transferring funds between rural and small urbanized areas, or to any area of the state if the state has a statewide program for meeting the objectives of Section 5310.

- j. Private Sector Participation. Describe the recipient's procedures for providing for maximum feasible participation by private providers of public transportation.
- k. Civil Rights. Describe how the recipient 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 management plan must include the program-specific Title VI requirements detailed in Chapter VIII, "Other Provisions," including the recipient's efforts to assist minority applicants and to include subrecipients serving significant minority populations. (Inclusion in the PMP may satisfy certain requirements for one-time submissions in the civil rights areas.)
- l. Section 504 and ADA Reporting. Describe the recipient's method for monitoring subrecipients' compliance with Section 504 and ADA regulations and for processing the plans, reports, and certifications submitted to it under the provisions of those regulations.
- m. Program Measures. Describe the recipient's method for collecting and reporting the data for program measurement described in Chapter II and VI of this circular.
- n. Program Management. Describe how the recipient 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 procedures for management or financial reviews and project monitoring or on-site reviews. Describe any standards set by the recipient for matters such as productivity, cost effectiveness, or service standards. Detail any reporting requirements.
- o. Other Provisions. Describe the process by which the recipient complies with other federal requirements such as environmental protection, Buy America provisions, pre-award and postdelivery reviews, restrictions on lobbying, prohibition of exclusive school transportation, and drug and alcohol testing, including the state's procedures for monitoring compliance by subrecipients.

## **F. MANAGEMENT PLAN REVISIONS.**

All recipients must have an PMP approved by FTA on file with the FTA regional office. An approved PMP remains valid until FTA approves a later plan submitted by the recipient or an FTA management review results in a specific request to the recipient by FTA for a revised PMP, or FTA announces significant new program documentation requirements. FTA strongly encourages the recipient to issue timely revisions to the PMP, particularly when information helpful to minority applicants, subrecipients, and third party contractors is involved. When the recipient proposes significant revisions to the PMP 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 recipient may submit changes and additions in the form of page changes that can be approved by FTA and incorporated into the PMP on file. If the recipient changes the PMP significantly, however, it should submit the entire revised plan to FTA for approval. The recipient is responsible for ensuring that FTA has a complete copy of the current PMP. The recipient may submit minor changes and technical corrections to FTA to update the approved plan, without the need for additional FTA approval. The recipient should reexamine the PMP to make sure it reflects current requirements of this circular and revise the PMP by May 1, 2014.

## **SECTION VII- OTHER PROVISIONS**

### **A.INTRODUCTION.**

In addition to the program-specific requirements and guidance provided in this circular, FTA recipients are held to a number of FTA-specific and other federal requirements. This chapter highlights the major requirements and provides citations to the 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 recipients must sign annually (via FTA's electronic grant management system) to establish or renew their funding relationship with FTA. The master agreement and the certifications and assurances represent the recipients' legal affirmation to abide by FTA and other federal requirements that are applicable to their grants.

Some of the topics covered in the master agreement and the certifications and assurances are summarized throughout this chapter, as a reminder to recipients of their obligations to FTA. More information about individual requirements can be found in the master agreement, the certifications and assurances on the FTA public website [www.fta.dot.gov](http://www.fta.dot.gov), the FTA Electronic Grants Management System's website, and in the references provided throughout this chapter.

### **B.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. FTA's procurement requirements are codified at 49 U.S.C. 5325. In addition, regulations promulgated at 49 CFR part 18 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments) establish uniform administrative rules for federal grants, cooperative agreements and subawards to state, local, and Indian tribal governments (private, nonprofit organizations must comply with similar regulations in 49 CFR part 19). Provisions of the common 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(20) October 1, 2013, as amended) at Section 17, "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 4220.1F. "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.

### **C. ENVIRONMENTAL REVIEWS.**

All projects seeking FTA financial assistance require compliance with the National Environmental Policy Act (NEPA) implementing regulations (40 C.F.R. § 1500-1508), FHWA and FTA's Environmental Impact and Related Procedures (23 C.F.R. § 771), Efficient Environmental Reviews for Project Decision-making (23 U.S.C. § 139), and numerous other environmental laws, regulations, and orders such as Section 106 of the National Historic Preservation Act (36 CFR 800), the Clean Water Act, and the Endangered Species Act. Project sponsors should consult with the FTA regional office early in project development to identify the appropriate class of action (categorical exclusion, environmental assessment, or environmental impact statement) for the NEPA review and any other environmental requirements. Project sponsors should not move forward with any steps to develop the project that would preclude the fair consideration of alternatives (e.g., engineering and construction) until FTA concludes the NEPA process by issuing a record of decision (ROD), finding of no significant impact (FONSI), or a categorical exclusion (CE). Property acquisition, other than for the linear right-of-way needed for the project (as determined in close consultation with FTA staff), should not take place until a ROD, FONSI, or CE is issued.

### **D. ENVIRONMENTAL JUSTICE.**

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

### **E. CLEAN AIR ACT (CAA).**

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

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

### **F. PRIVATE SECTOR PARTICIPATION.**

Federal law requires the public to be involved in the transportation planning process, and specifically requires that private providers be provided an opportunity to be consulted in developing transportation plans and programs in both urbanized and rural areas. Public involvement processes must be proactive and provide complete information, timely public notice, full public access to key decisions, and opportunities for early and continuing involvement throughout the transportation planning and programming process.

### **G. REAL PROPERTY ACQUISITION AND RELOCATION ASSISTANCE.**

If a grant applicant intends to use federal financial assistance in a project which will require real property, the applicant must provide assurances—required by Sections 305 and 210 of 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 U.S. DOT implementing regulations (49 CFR part 24).

DOT regulations at 49 CFR part 24 implement a governmentwide 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.

The 49 CFR part 24 regulation is available from the Government Printing Office website at: [http://www.access.gpo.gov/nara/cfr/waisidx\\_99/49cfr24\\_99.html](http://www.access.gpo.gov/nara/cfr/waisidx_99/49cfr24_99.html). Upon request, FTA regional offices can provide a copy of the uniform act or regulation in its amended form. In addition, the grantee should inform itself 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. Please consult with your FTA regional office about any property issues.

#### ***H. 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 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) does not apply to the Section 5310 program.

#### ***I. CIVIL RIGHTS.***

The recipient agrees to comply with all applicable civil rights statutes and implementing regulations including, but not limited to, the following:

- a. Nondiscrimination in Federal Transit Programs. The recipient agrees to comply, and assures the compliance of each third party contractor at any tier and each subrecipient at any tier under the project, with the provisions of 49 U.S.C. 5332. These provisions prohibit



discrimination on the basis of race, color, religion, national origin, sex, age, and disability, and prohibit discrimination in employment or business opportunity.

- b. Nondiscrimination on the Basis of Disability. The recipient agrees to comply, and assures the compliance of each third party contractor and each subrecipient at any tier of the project, with the applicable laws and regulations, discussed below, for nondiscrimination on the basis of disability.
- (1) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), prohibits discrimination on the basis of disability by recipients of federal financial assistance.
  - (2) ADA, as amended (42 U.S.C. 12101 *et seq.*), prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities, as well as imposes specific requirements on public and private providers of public transportation.
  - (3) DOT regulations implementing Section 504 and the ADA include 49 CFR parts 27, 37, 38, and 39. Among other provisions, the regulations specify accessibility requirements for the design and construction of new transportation facilities and vehicles; require that vehicles acquired (with limited exceptions) be accessible to and usable by individuals with disabilities, including individuals using wheelchairs; require public entities (including private entities “standing in the shoes” of a public entity as a subrecipient or under a contract or other arrangement) providing fixed-route service to provide complementary paratransit service to individuals with disabilities who cannot use the fixed-route service; and include service requirements intended to ensure that individuals with disabilities are afforded equal opportunity to use transportation systems.
  - (4) Providers of demand responsive service must utilize accessible vehicles, as defined at 49 CFR 37.7 or meet the applicable equivalent service standard. For private and public entities, the service must be equivalent in regard to schedules, response times, geographic areas of service, hours and days of service, availability of information, reservations capability, constraints on capacity or service availability, and restrictions based on trip purpose.
  - (5) Providers of fixed-route service must generally utilize accessible vehicles. Private entities may utilize nonaccessible vehicles if they can provide equivalent service in terms of schedules and headways, in addition to the equivalent service requirements described above for demand responsive service. Public entities must also provide complementary paratransit service to fixed-route service as defined in 49 CFR 37.121.
  - (6) In addition, recipients of any FTA funds should be aware that they also have responsibilities under Titles I, II, III, IV, and V of the ADA in the areas of employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other federal agencies.

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

amended, (42 U.S.C. 2000e), and with 49 U.S.C.5332 and any implementing regulations DOT may issue.

- e. Nondiscrimination on the Basis of Sex. The recipient agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681 *et seq.*), with DOT implementing regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 CFR part 25.
- f. Nondiscrimination on the Basis of Age. The recipient agrees to comply with all applicable requirements of the Age Discrimination Act of 1975, as amended (42U.S.C. 6101 *et seq.*), and Department of Health and Human Services’implementing regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance” (45 CFR part 90), which prohibit discrimination against individuals on the basis of age. In addition, the recipient agrees to comply with all applicable requirements of the Age Discrimination in Employment Act (ADEA), 29 U.S.C. 621 through 634, and  
  
Equal Employment Opportunity Commission (EEOC) implementing regulations, “Age Discrimination in Employment Act” (29 CFR part 1625), which prohibit employment discrimination against individuals on the basis of age.
- g. Disadvantaged Business Enterprise (DBE). To the extent required by federal law, regulation, or directive, the recipient agrees to take the following measures to facilitate participation by DBEs:
  - (1) The recipient agrees and assures that it will comply with FAST Section1101(b) (23 U.S.C. 101 note), which directs the Secretary of Transportation to expend not less than 10 percent of authorized federal funds with DBEs. This10 percent national goal is aspirational and is used by DOT to help monitor and evaluate DBE participation in DOT-assisted contracting opportunities.
  - (2) The recipient agrees and assures that it will comply with DOT regulation, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,” 49 CFR part 26. Among other provisions, this regulation requires certain recipients of DOT federal financial assistance, namely state and local transportation agencies, to establish goals for the participation of disadvantaged entrepreneurs and certify the eligibility of DBE firms to participate in their DOT-assisted contracts.
  - (3) The recipient agrees and assures that it shall not discriminate on the basis of race, color, sex, or national origin, in the award and performance of any third party contract, or subagreement supported with federal assistance derived from DOT, or in the administration of its DBE program, and will comply with the requirements of 49 CFR part 26. The recipient agrees to take all necessary and reasonable steps set forth in 49 CFR part 26 to ensure nondiscrimination in the award and administration of all third party contracts and subagreements supported with federal assistance derived from DOT. As required by 49 CFR part 26 and approved by DOT, the recipient’s DBE program is incorporated by reference and made part of the grant agreement or cooperative agreement. The recipient agrees that implementation of this DBE program is a legal obligation, and that failure to carry out its terms shall be treated as a violation of the grant agreement or cooperative agreement. Upon notification by DOT to the recipient of a failure

to implement its approved DBE program, DOT may impose sanctions as provided for under 49 CFR part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001, and/or the Program Fraud Civil Remedies Act, (31 U.S.C. 3801 et seq).

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

### ***J CHARTER BUS SERVICES.***

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

In addition, the charter rule established a new electronic database. Interested private operators must register at the FTA charter registration website ([http://www.fta.dot.gov/laws/leg\\_reg\\_179.html](http://www.fta.dot.gov/laws/leg_reg_179.html)) in order to receive notice from transit agencies regarding potential charter trips. Private operators may register their geographic area by zip code. When a transit agency receives a request for charter service that does not fit within one of the other exceptions outlined in the rule, and it is interested in performing the service, it must send notice to all private operators registered in the recipient's geographic service area. The notice sent by the transit agency must conform strictly to the requirements of the rule, as additional information may void the notice and may subject the transit agency to a complaint from registered charter providers. The rule also provides for a detailed complaint process for addressing potentially frivolous complaint filings, in addition to complaints against transit agencies that violate the regulation, and a complaint process for removing private registered providers if they are abusing the process. The rule contains hearing procedures, appeal procedures, and several appendices to assist transit agencies with compliance, including a penalty matrix and a series of frequently asked questions and answers.

The charter rule defines a qualified human service organization (QHSO) as an organization that serves persons who qualify for human service or transportation-related programs or services due to disability, income, or advanced age. The term QHSO is used consistent with the president's executive order on human service transportation coordination (February 24, 2004). If an organization serving seniors or individuals with disabilities receives Section 5310 funding, directly or indirectly, the QHSO is not required to register on the FTA charter registration website.

Appendix C to 49 CFR part 604 provides the following additional guidance: Q: If I receive funds under 49 U.S.C. Sections 5310, 5311, 5316, or 5317, may I provide charter service for any purpose? A: No.

You may only provide charter service for “program purposes,” which is defined in this regulation as “transportation that serves the needs of either human service agencies or targeted populations (elderly, individuals with disabilities, and/or low income individuals) \* \* \*” 49 CFR Section 604.2(e). Thus, your service only qualifies for the exemption contained in this section if the service is designed to serve the needs of targeted populations. Charter service provided to a group, however, that includes individuals who are only incidentally members of those targeted populations, is not “for program purposes” and must meet the requirements of the rule (e.g., an individual chartering a vehicle to take their relatives including elderly aunts and a cousin who is a disabled veteran to a family reunion).

#### **K . DRUG AND ALCOHOL TESTING.**

Recipients or subrecipients that receive only Section 5310 program 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 all 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 (Section 5307, 5309, or 5311) 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), may be used for Section 5310 employees; there is no need to have separate testing programs. Employees of a subrecipient of Section 5310 funds from a state or designated recipient of another FTA program (e.g., 5307 or 5311) should also be included in the designated recipient’s testing program. States and designated recipients that receive funds for Sections 5307, 5309, or 5311, in addition to Section 5310, should consult FTA’s regulation at 49 CFR part 655, “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations.” 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.

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

#### **L. DRUG-FREE WORKPLACE.**

In accordance with the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 *et seq.*), and 49 CFR part 32, each recipient is required to maintain a drug-free workplace for all employees and to have an antidrug policy and awareness program. The recipient must agree that it will provide a drug-free workplace and comply with all requirements of 49 CFR part 32. These provisions apply only to FTA’s 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 Department of Labor provides a drug-free workplace advisor to assist users in developing tailored policy statements

at the following link: <http://www.dol.elaws/drugfree.htm>. The ongoing drug-free awareness program must inform employees about the dangers of drug abuse; about any available drug counseling, rehabilitation, and employee assistance programs; about penalties that may be imposed; and that employees are to be aware that the recipient operates a drug-free workplace.

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

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

#### **M. RESTRICTIONS ON LOBBYING.**

Federal assistant 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 nonfederal funds for such purposes (49CFR part 20).

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

#### **N. PRE-AWARD AUTHORITY.**

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

The authorization of formula funds or appropriation of funds for discretionary projects and publication of those projects in FTA's annual *Federal Register* Notice of Apportionments and Allocations triggers 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 ROD, FONSI, or a determination that the project is a categorized exclusion, and included in the 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.

c. 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 activities 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 FTA 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 environmental review 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 Federal Financial Report 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*.

**O. SAFETY AND SECURITY.**

The FAST Act retained 49 U.S.C. 5329 to provide FTA with the authority to establish a new comprehensive framework to oversee the safety of public transportation throughout the United States. The law requires, among other things, that FTA issue a National Public Transportation Safety Plan, establish safety performance criteria for all modes of public transportation, define a "state of good repair," establish minimum safety performance standards for public transportation vehicles, and a safety certification training program for transit agency and state safety oversight (SSO) staff responsible for safety oversight. States are required to strengthen their SSO programs and submit the programs to FTA for certification. In addition, public transportation agencies must establish comprehensive agency safety plans for their rail and bus operations.

FTA will issue interim guidance and regulations to implement these new requirements in consultation with public transportation industry stakeholders.

**Note:** FTA has entered into a Memorandum of Understanding (MOU) with the American Association of State Highway and Transportation Officials (AASHTO), the American Public Transportation Association (APTA), and the Community Transportation Association of America (CTAA) that supports the transit industry and federal commitment to bus safety, and supports a model bus safety program to which all the signatories of this agreement have agreed to subscribe. The program also focuses on addressing the needs of rural and small urban providers. The MOU is available on FTA's bus safety website: [http://bussafety.fta.dot.gov/show\\_resource.php?id=3949](http://bussafety.fta.dot.gov/show_resource.php?id=3949)

**P. 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. All recipients, including those using 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 that 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.



**Q. SCHOOL BUS TRANSPORTATION.**

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

**R. COMMERCIAL DRIVER’S LICENSE (CDL).**

All drivers of motor vehicles designed to transport sixteen or more passengers (including the driver) or of vehicles which have a gross combination weight rating of 26,001 pounds or more must have a CDL. Mechanics that drive the vehicles must also have a CDL.

<b>VIII – APPLICATION PROCESS</b>
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**A. APPLICATION CYCLE**

Pursuant to the §5310 program, GHMPO shall conduct a selection process for projects seeking FTA Enhanced Mobility for Seniors and Individuals with Disabilities funds apportioned to the Hickory Urban Area. To eliminate duplicative efforts, GHMPO coordinates the regional competition for federal Enhanced Mobility for Seniors and Individuals with Disabilities funds with the WPRTA.

The WPRTA Selection Program is outlined in the 5310 application (Appendix B) and 5310 application overview (Appendix C)

**B. PROJECT SELECTION CRITERIA**

The following set of selection criteria was originally developed by representatives from Catawba, Caldwell, and Burke Counties, and representatives from GHMPO and WPRTA. The criteria have since been refined by WPRTA staff and approved by the Transportation Advisory Board and the Seniors and Individuals with Disabilities Subcommittee. The purpose of these criteria is to serve as the framework for the technical evaluation of projects submitted to the WPRTA for the regional ranking portion of the GHMPO Consolidated Grant Program as well as the regional competition and Enhanced Mobility of Seniors and Individuals with Disabilities funds.

The intent of the selection criteria is to support the adopted goals and strategic objectives in the *WPRTA Local Coordinated Plan* and fund projects that are consistent with regional policies. It is also the intent of these criteria to prioritize and implement the most financially sound, coordinated, and effective special needs transportation projects in the Hickory Urban Area. Projects will be scored against the following criteria:

- ☐ Project meets one the adopted goals and strategic objectives found in the *WPRTA Local Coordinated Plan*.

- ☐ Project meets the intent of §5310 Program Goal of "improve mobility for elderly individuals and individuals with disabilities."
- ☐ Project has an approved financial plan and project schedule.
- ☐ Project shows evidence of inter-agency or service coordination efforts.
- ☐ Project maintains existing special needs transportation services, amenities or infrastructure that currently meet needs in the community (including minor expansion or improvement).
- ☐ New project or major expansions or improvements to existing services that address special needs populations for which unmet needs currently exist.
- ☐ Project is part of a long-range strategy, package of projects, or local or regional plan.
- ☐ Cost-efficiency: preference to projects with low cost per person served.
- ☐ Project provides benefits to special needs populations.
- ☐ Project defines specific performance measures to be used in determining success of the project.
- ☐ Applicable Federal Assurance Transit documentation
- ☐ Applicant must demonstrate the ability to work with the elderly and/or persons with disabilities
- ☐ The applicant must certify that matching funds are available for the approved project
- ☐ The applicant must have generally accepted operational and accounting capabilities
- ☐ The applicant must describe the demographics of the service area, including the number of elderly and persons with disabilities to be served by the program.

## **Method Used**

GHMPO staff will organize an equitable scoring team at the onset of each project selection process. That team will consist of one representative from each county encompassing the Hickory Urban Area, one representative from a regional agency, and WPRTA staff. Each entity providing a representative to the scoring team will also provide an alternate in the event that the primary scorer or scores must be substituted. The evaluation team will score projects against each criterion and an average will be tabulated to create a final criterion score. These average scores will be summed to produce a ranked list of projects that the Transportation Advisory Board and the Seniors and Individuals with Disabilities Subcommittee will use as a tool to produce a funding recommendation. In the event a project sponsor is selected for the evaluation team they will refrain from scoring their own project and scores from the combination of remaining members of the team and alternates will be used to produce criterion averages.

GHMPO will use the WPRTA grant application in combination with a WPRTA-produced grant application supplement to answer all relevant questions and reduce duplication of effort for those applying for grants. The application materials and links to WPRTA grant materials will be available in an

electronic format on the WPRTA website at the time a call for projects is issued. If project sponsors are unable to access the Internet, WPRTA will either forward an electronic form or mail a hard copy to the potential applicant upon request.

After applications have been received and the submission deadline passed, the technical scoring team will receive a copy of each application, the scoring criteria, and evaluation materials. The scoring team will have a previously agreed upon amount of time to perform the technical evaluations and submit their scores to WPRTA. At this point WPRTA staff will average the scores and prepare a ranked program of projects that will be submitted to the GHMPO for review and use in developing recommendation to the WPRTA.

### **Annual Program of Projects and Approval Process**

When the technical evaluation process is complete, the GHMPO will review and prioritize projects, and submit their funding recommendation to the Transportation Advisory Committee (TAC). The TAC will review the GHMPO recommendation and make their funding recommendation to the WPRTA Board of Directors (BOD) for review and discussion. GHMPO staff will release the list for public comment, at which time GHMPO will solicit comments from interested parties. Comments will be compiled and responded to. Individuals may provide public testimony during the public comment portion of the WPRTA Board meeting prior to approval of the program of projects. Once the comment period has closed, GHMPO staff will present the WPRTA BOD with any comments received and staff responses. The BOD will then forward a funding recommendation for Enhanced Mobility for Seniors and Individuals with Disabilities funds and a GHMPO ranked list (for projects applying to receive state funds) to the State for approval, and inclusion in the MTIP and State TIP.

### **C. CREATING A PRIORITIZED CONTINGENCY LIST**

GHMPO will maintain a prioritized list of backup projects in the event that more proposals are submitted than can be funded. The contingency list will be created during the initial funding recommendation made by the GHMPO. Projects on the contingency list will be awarded federal or state funding according to project type and request in the prioritized order they appear if:

- ☐ include Enhanced Mobility for Seniors and Individuals with Disabilities program becomes available or;
- ☐ a project sponsor who is granted funds cannot utilize those dollars within the allowable timeframe (year of apportionment plus two years) on the project for which the funds were originally awarded.

The contingency list will become effective with the approval of the fully funded project list, and will remain in effect until the following Enhanced Mobility for Seniors and Individuals with Disabilities call for projects is issued.

#### **D. AMENDING THE PROGRAM OF PROJECTS**

WPRTA will make every attempt to distribute all available federal funds through its 5310 Management Program. In the event that Enhanced Mobility for Seniors and Individuals with Disabilities funds available from the respective 5310 Management Program are not all awarded to project sponsors, WPRTA will distribute the remaining dollars in the following manner:

- ☐ The remaining allowable funds for administration and planning will be set aside for WPRTA.
- ☐ Once the remaining eligible planning and administration funds have been separated, the remaining project funds will be formulaically distributed to projects already in the FTA approved program of projects (from the most recent 5310 Management Program) in the ratio of the original award to the total sum originally distributed'. Commensurate additional match for the projects must be met by the project sponsor in order for the added funds to be awarded.
- ☐ WPRTA will program the distributed funds into the MTIP and STIP.
- ☐ WPRTA will amend contracts and will subsequently obligate and distribute the remaining funds.

Depending on the year of apportionment, Enhanced Mobility for Seniors and Individuals with Disabilities funds from a selection process that still remain, and are not able to be distributed in the manner described above will be included in the following call for projects.

#### **Policy Rationale**

GHMPO's selection criteria provide a solid foundation for the technical evaluation of each project. Assessing each project on merits, such as being derived from the locally developed *Local Coordinated Plan* and being based on a complete financial plan, assures the region that selected projects are pertinent to the regional strategy for service delivery, and that they will be effectively operated.

The regional selection and program of projects approval processes provide for a high level of involvement by human service transportation providers, Medicaid brokers, transit authorities, and other interested parties. Through outreach to project sponsors and making WPRTA staff available for questions it is the GHMPO's intent to keep these processes as transparent as possible. During the approval process all meetings are open to the public and comments are readily welcomed.

#### **Equity of Distribution**

This distribution method accomplishes generally fair and equal treatment of all interested parties. Calls for projects will be announced in a press release and GHMPO's website and social media. In addition, calls for projects will be posted on the WPRTA website.

#### **E. REPORTING**

All subrecipients are required to prepare reports on a quarterly or annual basis. Quarterly reporting may include a project narrative, detail of operating expenditures, expenditures by service type, statistical

summary by service type, Disadvantaged Business Enterprise, complaints, and/or capital expenditures. Annually, subrecipients are also required to submit updated asset inventories.

WPRTA compiles information from subrecipients and submits the following standard FTA reporting elements for all programs:

- ☐ Annual Certifications and Assurances
- ☐ Annual program of projects status reports
- ☐ Quarterly Milestone activity reports
- ☐ Program performance measures
- ☐ Annual survey results
  
- ☐ Quarterly DBE reports
- ☐ Complaints
- ☐ Program Income
- ☐ Denial of Trips
- ☐ Trip statistics
- ☐ Annual update System Safety Program Plan
- ☐ Title VI
- ☐ Reporting documentation and invoicing
- ☐ Unduplicated trips
- ☐ Unduplicated riders
- ☐ How many gaps in service are filled
- ☐ Number of rides/trips provided.

## APPENDIX A – DEFINITIONS

**Accessible Taxi** – An accessible taxi is a vehicle that is used by a private provider of on-demand transportation service to the public that is regulated and licensed for such use by the municipality, county or other government entity. An accessible taxi is one which has the capacity to accommodate a passenger who uses a wheelchair as defined in DOT Final Rule.

**Americans with Disabilities Act (ADA)** – Public Law 336 of the 101<sup>st</sup> Congress, enacted July 26, 1990 (42 U.S.C. 12101 et seq.) The ADA prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation.

**Applicant**- An eligible entity that has submitted an application for funding, however, has not yet been awarded a grant for the funding cycle.

**Capital Asset** - Facilities or equipment with a useful life of at least one year.

**Capital Project** - A category of reimbursable project expenses that includes all activities identified in 49 U.S.C. 5302(3). Eligible activities under this project category are explained in Chapter III of this circular.

**Competitive Selection Process** - A process to rank and choose which projects will be funded. The projects selected must be derived from a Locally Developed, Coordinated Public Transit-Human Services Transportation Plan.

**Coordinated Public Transit-Human Service Transportation Plan (Local Coordinated Plan):** Means a locally developed, coordinated transportation plan that identifies the transportation needs of individuals with disabilities, seniors, and people with low incomes, provides strategies for meeting those local needs, and prioritizes transportation services for funding and implementation.

**Designated Recipient** - See Recipient.

**Disability** – The term ‘disability’ has the same meaning as in section 3(l) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)

**Equipment** - An article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of the capitalization level established by the governmental unit for financial statement purposes, or \$5,000. Equipment includes rolling stock and all other such property used in the provision of public transit service.

**Federal Transit Administration** – The agency under the U.S. Department of Transportation that provides financial assistance to develop new transit systems and improve, maintain, and operate existing systems.

**Governor** - The term ‘Governor’ means the Governor of a State, the mayor of the District of Columbia, and the Governor of a territory of the United States; and includes the designee of the Governor.

**Grant Application** - A complete application for an award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government to an eligible recipient.

**Grantee** – Also referred to as a sub-recipient, a grantee is an eligible entity that has applied for funds, has been awarded funds, and has executed a contract with the designated recipient of FTA funds.

**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.

**Large Urbanized Area:** An urbanized area (UZA) with a population of 200,000 or more individuals, as determined by the Bureau of the Census.

**Lead Planning Agency** - The agency selected at the local level to lead the planning process for development of the coordinated public transit-human services transportation plan.

**Local Coordinated Plan** – the WPRTA 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.

**Mass Transportation or Mass Transit** – Synonymous with public transportation.

**Master Agreement** - The FTA official document containing FTA and other cross-cutting Federal requirements applicable to the FTA recipient and its project(s). The Master Agreement is generally revised annually in October. The Master Agreement is incorporated by reference and made part of each FTA grant, cooperative agreement, and amendment thereto.

**Metropolitan Planning Organization (MPO)** - The policy board of an organization designated in cooperation with the State and public transportation operators to carry out the metropolitan planning process, including development of long-range transportation plans and transportation improvement programs for metropolitan planning areas of a State.

**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.

**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.

**Operating Expenses** - Operating expenses are those costs necessary to operate, maintain, and manage a public transportation system. Operating expenses usually include such costs as driver salaries, fuel, and items having a useful life of less than one year.

**Paratransit** – Type of passenger transportation which are more flexible than conventional fixed-route transit but more structured than the use of private automobiles. Most often refers to wheelchair-accessible, demand response service.

**Preventive Maintenance** – All maintenance costs related to vehicles and non-vehicles. Specifically, it is defined as all the activities, supplies, materials, labor, services and associated costs required to preserve or extend the functionality and serviceability of the asset in a cost effective manner, up to and including the current state of the art for maintaining such an asset.

**Public Transportation** – The term ‘public transportation’ means regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income; and does not include intercity passenger rail transportation; intercity bus service; charter bus service; school bus service; sightseeing service; courtesy shuttle service for patrons of one or more specific establishments; or intra-terminal or intra-facility shuttle services.

**Purchase of Services or Purchased Transportation**- Transportation services provided to an entity from a public or private transportation provider based on a written contract. The provider is obligated in advance to provide a transportation service for the entity using its own employees in vehicles operated by the provider. Purchased transportation does not include franchising, licensing operations, management services, cooperative agreements, or private conventional bus service.

**Recipient** - Means a designated recipient designated by the Governor or a State that receives a grant under Section 5310. NCDOT is the designated agency in North Carolina for the Section 5310 Program in rural areas and small urban areas. WPRTA is the designated recipient for Hickory, NC large urbanized area.

**Rural Area** – The term ‘rural area’ means an area encompassing a population of fewer than 50,000 people that has not been designated in the most recent decennial census as an “urbanized area” by the Secretary of Commerce.

**Senior** – The term ‘senior’ means an individual who is 65 years old or older.

**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.

**Subrecipient** - Refers to a state or local governmental agency, non-profit organization or operator of public transportation services, including private operators of public transportation services, that receives a grant under Federal Section 5310 indirectly through a recipient.

**Traditional Section 5310 Projects** – Traditional Section 5310 projects are those public transportation capital projects planned, designed and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, in appropriate, or unavailable and carried out by eligible subrecipients as described in the Federal circular.



**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.

## APPENDIX B – ACRONYMS

5333(b) Warranty	Labor Related Non-competition Agreement
ADA	Americans with Disabilities Act
Authority	Western Piedmont Regional Transit Authority
BOT	Board of Transportation
CAA	Clean Air Act
CFR	Code of Federal Regulations
CTP	Community Transportation Program CTSP Community Transportation Service Plan
DBE	Disadvantaged Business Enterprise
EDTAP	Elderly and Disabled Transportation Assistance Program
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
FAST	Fixing America's Surface Transportation Act
FHWA	Federal Highway Administration
FTA	Federal Transit Administration
GHMPO	Greater Hickory Metropolitan Planning Organization
HHS	Health and Human Services
HUB	Historically Underutilized Business
LCP	Local Coordinated Plan
MAP-21	Moving Ahead for Progress in the Twenty First Century
MBE	Minority Business Enterprise
MTIP	Metropolitan Transportation Improvement Program
NCDOT	North Carolina Department of Transportation
NTI	National Transportation Institute OMB Office of Management and Budget
OPSTATS	Operating Statistics
PMP	Program Management Plan
PTD	NCDOT Public Transportation Division
RFP	Request for Proposals
RGP	Rural General Public
ROAP	Rural Operating Assistance Program
RTAP	Rural Transportation Assistance Program
SAFTEA-LU	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users
Section 5307	49 USC Section 5307
Section 5310	49 USC Section 5310
STIP	State Transportation Improvement Program
TIP	Transportation Improvement Program
TDP	Transportation Development Plan

TEAM	FTA Transportation Electronic Award and Management
TMA	Transportation Management Area
USC	United States Code
USDOT	United States Department of Transportation UPTAS
	Uniform Public Transportation Accounting System UZA
	Urbanized Area
WBE	Woman Business Enterprise
WPRTA	Western Piedmont Regional Transit Authority

