



U.S. Department
of Transportation

**Federal Transit
Administration**

CIRCULAR

FTA C 5300.1

DATE: February 28, 2015

Subject: STATE OF GOOD REPAIR GRANTS PROGRAM: GUIDANCE AND APPLICATION INSTRUCTIONS

1. PURPOSE. This circular is an issuance of guidance on the administration of the State of Good Repair Grants Program under 49 U.S.C. 5337. This guidance incorporates provisions of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141 (2012), and includes the most current available guidance for the federal public transportation program as of the date of publication.
2. CANCELLATION. This is a new circular. It does not cancel any existing directive.
3. AUTHORITY.
 - a. Federal Transit Laws, Title 49, United States Code, Chapter 53.
 - b. 49 CFR 1.91.
4. WAIVER. Federal Transit Administration (FTA) reserves the right to waive any provision of this circular to the extent permitted by federal law or regulation.
5. FEDERAL REGISTER NOTICE. In conjunction with publication of this circular, a *Federal Register* notice was published on January 28, 2015 addressing comments received during the development of the circular.
6. AMENDMENTS TO THE CIRCULAR. FTA reserves the right to update this circular to reflect changes in other revised or new guidance and regulations that undergo notice and comment, without further notice and comment on this circular. FTA will post updates on our website: www.fta.dot.gov. The website allows the public to register for notification when FTA issues *Federal Register* notices or new guidance; visit the website and click on “sign up for e-mail updates.”
7. ACCESSIBLE FORMATS. This document is available in accessible formats upon request. To obtain paper copies of this circular as well as information regarding these accessible formats, call FTA’s Administrative Services Help Desk at 202-366-4865. Individuals with hearing impairments may contact the Federal Relay Service at 1-800-877-8339 for assistance with the call.

/S/ Original Signed By
Therese W. McMillan
Acting Administrator

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FTA CIRCULAR 5300.1
STATE OF GOOD REPAIR GRANTS PROGRAM GUIDANCE AND APPLICATION
INSTRUCTIONS
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CHAPTER I

INTRODUCTION AND BACKGROUND

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

Public transportation means regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income; and does not include intercity passenger rail transportation provided by Amtrak; intercity bus service; charter bus service; school bus service; sightseeing service; courtesy shuttle service; or intraterminal or intrafacility shuttle services. 49 U.S.C. 5302(14). It includes, but is not limited to, transportation service to the public provided by buses, heavy rail, light rail, commuter rail, bus rapid transit, passenger ferryboats, inclined railways, people movers, van pools, streetcars, and aerial tramways. Public transportation can be either fixed-route or demand-response service.

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

2. AUTHORIZING LEGISLATION. Most federal transit laws are codified at Chapter 53 of Title 49, United States Code. Authorizing legislation is substantive legislation enacted by Congress that establishes or continues the legal operation of a federal program or agency. FTA's most recent authorizing legislation is the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141 (2012). This circular reflects changes to the federal transit laws as well as changes required by other laws that have become effective.
3. HOW TO CONTACT FTA. FTA's regional and metropolitan offices are responsible for the provision of financial and technical assistance to FTA recipients and oversight of grant implementation for most FTA programs. Certain specific programs are the responsibility of FTA headquarters. Inquiries should be directed to either the regional or metropolitan office responsible for the geographic area in which you are located. See Appendix D of this circular for specific regional and metropolitan office contact information.

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

Federal Transit Administration
Office of Communications and Congressional Affairs
1200 New Jersey Avenue, SE
East Building, Fifth Floor
Washington, DC 20590

Phone: 202-366-4043
FAX: 202-366-3472

4. **DEFINITIONS.** All definitions in 49 U.S.C. 5302 and 5337 apply to this circular as well as the following definitions:
- a. **Applicant:** An entity that is seeking, but has not yet been awarded, specific federal financial assistance directly from FTA. The term “applicant” is used interchangeably with “grant applicant.”
 - b. **Bus Rapid Transit System (BRT):** A bus system that meets all of the following criteria:
 - (1) Over 50 percent of the route must operate in a separated right-of-way dedicated for transit use during peak periods. Other traffic can make turning movements through the separated right-of-way.
 - (2) The route must have defined stations that are accessible for persons with disabilities, offer shelter from the weather, and provide information on schedules and routes.
 - (3) The route must provide faster passenger travel times through congested intersections by using active signal priority in separated guideway, and either queue-jump lanes or active signal priority in nonseparated guideway.
 - (4) The route must provide short headway, bidirectional service for at least a fourteen-hour span of service on weekdays and a ten-hour span of service on weekends. Short headway service on weekdays consists of either (a) fifteen-minute maximum headways throughout the day, or (b) ten-minute maximum headways during peak periods and twenty-minute maximum headways at all other times. Short headway service on weekends consists of thirty-minute maximum headways for at least ten hours a day.
 - (5) The provider must apply a separate and consistent brand identity to stations and vehicles.
 - c. **Capital Asset:** Includes equipment, rolling stock, infrastructure, and facilities for use in public transportation and owned or leased by a recipient or subrecipient of federal financial assistance.
 - d. **Capital Lease:** Any transaction whereby the recipient acquires the right to use a capital asset without obtaining full ownership, regardless of the tax status of the transaction.

- e. 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.
- f. Clean Fuel Bus: A passenger bus used to provide public transportation that is powered by compressed natural gas (CNG), liquefied natural gas, propane, batteries, alcohol-based fuels, hybrid electric, fuel cell, or other low or zero emissions technology that the administrator of the Environmental Protection Agency (EPA) has certified sufficiently reduces harmful emissions.
- g. Commuter Bus: Local fixed-route bus transportation primarily connecting outlying areas with a central city. Commuter bus is characterized by usually using a motorcoach (over-the-road bus), having multiple-trip tickets, multiple stops in outlying areas and limited stops in the central city, and having at least five miles of closed-door service. In commuter service, 50 percent or more of the passengers boarding at each key bus station over the full route must make a same-day return trip; otherwise, the service is an intercity service. A key bus station is a station at the end of a line, a major transfer point, or one that otherwise accounts for a substantial portion of the boardings.
- h. Commuter Rail: Local passenger rail transportation usually having multiple-ride tickets and having, at a minimum, operations during morning and evening peak periods. Commuter rail is characterized by service with relatively long distances between stops, connecting a central city with outlying areas. In commuter service, 50 percent or more of the passengers boarding at each key rail station over the full route must make a same-day return trip; otherwise, the service is an intercity service. A key rail station is a station at the end of a line, a major transfer point, or one that otherwise accounts for a substantial portion of the boardings. Commuter rail excludes services provided by Amtrak. In particular, services that use Amtrak branding, are included in Amtrak's schedules, use Amtrak's ticketing systems, participate in Amtrak's customer loyalty program, and/or benefit from Amtrak's priority access to Class I railroads are all excluded. These services are considered to be intercity rail.

A service that does not satisfy this definition of commuter rail but which was reported as commuter rail to the National Transit Database in Report Year 2012 may continue to report to NTD as commuter rail. The data submitted for such a service will be treated as commuter rail for the purpose of apportioning FTA grant funds apportioned by formula, and such a service will be treated as commuter rail for the purpose of determining project eligibility under programs administered by FTA.

- i. Cost of Project Property: The net invoice unit price, including the cost of modifications, attachments, accessories, or any auxiliary apparatus necessary to make the equipment usable for the intended purpose. Other charges, such as the cost of inspection, installation, transportation, taxes, duty, or in-transit insurance, should be treated in accordance with the grantee's regular accounting practices, in the same or as separate line items.
- j. Designated Recipient: The term "designated recipient" as defined at 49 U.S.C. 5302(4).

means: (i) 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; or (ii) a state or regional authority, if the authority is responsible under the laws of a state for a capital project and for financing and directly providing public transportation.

- k. Direct Recipient: An eligible entity authorized by a designated recipient or state to receive State of Good Repair Grants Program funds directly from FTA.
- l. Electronic Clearing House Operation (ECHO): A FTA Web-based application that processes drawdown payment requests from FTA grantees.
- m. Electronic Award Management System: A system that grantees and FTA use to manage grant applications, including the review, approval, and management of all grants. This system is used by grantees to submit financial status reports and milestone progress reports and to submit grant modification requests; this term includes FTA's Transportation Electronic Award Management System (TEAM) and successor systems.
- n. Equipment: An article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost that equals or exceeds the lesser of the capitalization level established by the governmental unit for financial statement purposes, or \$5,000. Equipment includes rolling stock and all other such property used in the provision of public transit service.
- o. Fixed Guideway: A public transportation facility (i) using and occupying a separate right-of-way for the exclusive use of public transportation; (ii) using rail; (iii) using a fixed catenary system; (iv) for a passenger ferry system; or (v) for a bus rapid transit system.
- p. Fleet Status Report: A report in FTA's Electronic Award Management System that identifies rolling stock to be replaced, retired, or disposed of. Appendix C of this circular contains a sample fleet status report.
- q. Fleet Management Plan: An inventory of all rolling stock and such other items as operating policies, peak vehicle requirements, maintenance and overhaul programs, system and service expansions, rolling stock procurements and related schedules, and spare ratio justification. The plan also calculates the number of rolling stock needed to operate at peak normal days.
- r. Force Account: The use of a grantee's own labor force to accomplish a capital project.
- s. Governor: The governor of a state, the mayor of the District of Columbia, and the chief executive officer of a territory of the United States; and includes the designee of the governor.
- t. Grant: An award of financial assistance, in the form of money, or property in lieu of money, by the federal government to an eligible grantee or recipient. Used interchangeably with "Grant Agreement."

- u. Grant Application: A complete application for an award of financial assistance, in the form of money, or property in lieu of money, by the federal government to an eligible recipient.
- v. High Intensity Fixed Guideway: Has the same definition as “Fixed Guideway” at 49 U.S.C. 5302(7). This term is used in MAP-21 to describe the specific tier of the formula for fixed guideway systems as opposed to the high intensity motorbus tier.
- w. High Intensity Motorbus: Public transportation that is provided on a high-occupancy vehicle lane with free access for other high-occupancy vehicles.
- x. Intelligent Transportation Systems (ITS): The use of electronics, communications, or information processing used as a single component, or in combination, to improve efficiency or safety of a transit or highway system.
- y. Joint Development Projects: A public transportation capital project that integrally relates to, and often co-locates with commercial, residential, mixed-use, or other non-transit development. Joint development may include partnerships for public or private development associated with any mode of transit system that is being improved through new construction, renovation, or extension. Joint development also includes intermodal facilities, intercity bus and rail facilities, transit malls, or historic transportation facilities. Joint development projects must, however, satisfy the statutory criteria at 49 U.S.C. 5302(3)(G) to be eligible for FTA capital funding. Please see FTA Circular 7050.1, August 25, 2014, for more information on joint development requirements.
- z. Large Urbanized Area: An urbanized area (UZA) with a population of at least 200,000 at the time of the last decennial census.
- aa. Local Government Authority: The term “local governmental authority” includes a political subdivision of a state or an authority of at least one state or political subdivision of a state; an Indian tribe; and a public corporation, board, or commission established under the laws of a state.
- bb. Master Agreement: The FTA official document containing FTA and other cross-cutting federal requirements applicable to the FTA recipient and its project. The Master Agreement is incorporated by reference and made part of each FTA grant, Cooperative Agreement, and amendment thereto.
- cc. Metropolitan Planning Area (MPA): The geographic area determined by agreement between the Metropolitan Planning Organization (MPO) for the metropolitan area and the governor of the state, within which the metropolitan transportation planning process is carried out.
- dd. 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 (TIPs) for MPAs of a state.

- ee. National Transit Database (NTD): The database established by Congress to be the nation's primary source for information and statistics on the transit systems of the United States. Over 800 transit providers in UZAs and over 1,300 transit providers in rural areas currently report to the NTD through the Internet-based reporting system, either directly or through their state departments of transportation. Recipients or beneficiaries of Urbanized Area Formula program (49 U.S.C. 5307) and Rural Area Formula Program (49 U.S.C. 5311) are already required to report to the NTD. Other NTD reporting requirements may be established by FTA as it implements the National Transit Asset Management (TAM) System described in 49 U.S.C. 5326. Data from the NTD is used by FTA for the apportionment of Urbanized Area Formula Program grants, Rural Area Formula Program grants, Tribal Transit Formula grants (49 U.S.C. 5311(j)), State of Good Repair grants (49 U.S.C. 5337), and Bus and Bus Facilities grants (49 U.S.C. 5339). Data from the NTD is also used to inform Congress, states, and local governments on the condition and performance of public transportation in the United States.
- ff. Net Project Cost: The part of a project that reasonably cannot be financed from revenues. 49 U.S.C. 5302(12). Revenues, in this instance, means farebox revenues.
- gg. New Bus Model: The term "new bus model" means a bus model (including a model using alternative fuel) that has not been used in public transportation in the United States before the date of production of the model; or has been used in public transportation in the United States, but is being produced with a major change in configuration or components
- hh. Nonprofit Organization: A corporation or association determined by the secretary of the Treasury to be an organization qualifying under 26 U.S.C. 501(c) as exempt from taxation pursuant to 26 U.S.C. 501(a), or which has been determined under state law to be nonprofit and for which the designated state agency has received documentation certifying the status of the nonprofit organization.
- ii. Overhaul: A capital expense performed as a planned or concentrated preventive maintenance activity intended to enable a piece of rolling stock to perform to the end of its original useful life.
- jj. Passenger Ferry: A vessel providing regular and continuing shared-ride service that regularly accommodates walk-on passengers not traveling in motor vehicles. Passenger ferries may or may not also accommodate private passenger vehicles with the walk-on passengers. A passenger ferry is a type of fixed guideway public transportation and excludes sightseeing service.
- kk. Preventive Maintenance: All maintenance costs related to vehicles and nonvehicles. Specifically, it is defined as all the activities, supplies, materials, labor, services, and associated costs required to preserve or extend the functionality and serviceability of the asset in a cost effective manner, up to and including the current state of the art for maintaining such an asset.
- ll. Public Transportation: 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 provided by the entity described in Chapter 243 (of Title 49, United States Code, *i.e.*, Amtrak—or a successor to such entity); intercity bus service; charter bus service; school bus service; sightseeing service; courtesy shuttle service for patrons of one or more specific establishments; or intraterminal or intrafacility shuttle services.

- mm. Rebuild: A capital expense associated with rolling stock that occurs at or near the end of a unit of rolling stock's useful life, and which results in an extended useful life for the unit of rolling stock consistent with the extent of the rebuilding.
- nn. Recipient: An entity that receives a grant of federal financial assistance under the State of Good Repair Grants Program directly from FTA. For purposes of this circular, the word "recipient" is used interchangeably with "direct recipient," and "grantee."
- oo. Rehabilitation: The rebuilding of revenue vehicles to original specifications of the manufacturer. Rebuilding may include some new components but has less emphasis on structural restoration than would be the case in a remanufacturing operation, focusing on mechanical systems and vehicle interiors.
- pp. Shared Use: Those instances in which a project partner, separate from a transit agency or grantee, occupies part of a larger facility and pays for its pro rata share of the construction, maintenance, and operation costs of the facility. Shared uses are declared at the time of grant award.
- qq. State: The fifty states, the District of Columbia, and Puerto Rico.
- rr. State of Good Repair: The term state of good repair will be defined in a rulemaking implementing the TAM program, in accordance with 49 U.S.C. 5326.
- ss. Statewide Transportation Improvement Program (STIP): A statewide prioritized listing/program of transportation projects covering a period of four years that is consistent with the Long-Range Statewide Transportation Plan, Metropolitan Transportation Plans, and TIPs, and required for projects to be eligible for funding under Title 23 and Chapter 53 of Title 49, United States Code.
- tt. Subrecipient: An entity that receives FTA funds via a pass-through agreement with a direct recipient or other grantee, whereby the original recipient remains responsible for compliance with all terms, conditions, and requirements associated with the grant. For purposes of this program, the only eligible subrecipients are those that are otherwise eligible direct recipients.
- uu. Transit: Public transportation.
- vv. Transportation Improvement Program (TIP): A prioritized listing/program of transportation projects covering a period of four years that is developed and formally adopted by an MPO as part of the metropolitan transportation planning process, consistent with the Metropolitan Transportation Plans, and required for projects to be

eligible for funding under Title 23 and Chapter 53 of Title 49, United States Code.

- ww. Triennial Review: The process by which FTA meets its statutory obligation to review and evaluate completely every three years the performance of a recipient of Urbanized Area Formula Grants Program funds and how the recipient meets statutory and administrative requirements, especially those requirements included in the Annual Certifications and Assurances. In addition to evaluating compliance with federal law, the review gives FTA an opportunity to provide technical assistance on the latest FTA requirements. Triennial reviews also aid FTA in reporting to the secretary, Congress, other oversight agencies, and the public transportation community on the Urbanized Area Formula Grants Program.
 - xx. Unified Planning Work Program (UPWP): A program of work identifying the planning priorities and activities to be carried out within an MPA during the next one- or two-year period. At a minimum, a UPWP includes a description of the transportation planning work and resulting products, the organization that will be responsible for performing the work, time frames for completing the work, the cost of the work, and sources of funds.
 - yy. Uniform System of Accounts (USOA): A structure of categories and definitions used for NTD reporting to ensure uniform data. The USOA contains various categories of accounts and records for classifying financial (Chart of Accounts) and operating data.
 - zz. Urbanized Area (UZA): 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.
 - aaa. Useful Life: The expected lifetime of project property, or the acceptable period of use in service. Useful life is used interchangeably with “service life.” **Note:** Land does not depreciate and therefore does not have a useful life.
5. PROGRAM HISTORY. Section 20027 of MAP-21 replaced the Fixed Guideway Modernization Formula program with a new State of Good Repair Grants Program codified at 49 U.S.C. 5337, which strictly focuses on the repair, rehabilitation, and replacement of transit capital assets. The new program will help public transit operators proactively maintain public transportation infrastructure in a state of good repair so that they operate safely, efficiently, reliably, and sustainably, and offer balanced transportation choices that help to improve mobility, reduce congestion, and encourage economic development. The State of Good Repair Grants Program provides capital assistance for replacement and rehabilitation projects for existing fixed guideway systems (including rail, bus rapid transit, and passenger ferries) and high intensity motorbus (buses operating in high-occupancy vehicle [HOV] lanes) to maintain public transportation systems in a state of good repair. Projects in high-occupancy toll lanes are not eligible for State of Good Repair funding.

The State of Good Repair Grants Program also provides funds for the implementation of Transit Asset Management (TAM) plans. After the Section 5326 TAM rulemaking is in effect, projects to be funded under the State of Good Repair Grants Program must be included in a TAM plan to receive funding. State of Good Repair Grants Program funding is

awarded by formula.

The new formula for fixed guideway apportionments is derived from two components: (1) the former fixed guideway modernization formula; and (2) a new service-based formula using data reported to the NTD. The formula for the high intensity motorbus apportionments uses service data for buses operating in HOV lanes.

The State of Good Repair Grants Program is somewhat similar to the former Fixed Guideway Modernization Formula program insofar as State of Good Repair Grants now authorized by 49 U.S.C. 5337 will fund many of the same types of projects that were previously funded under the former Fixed Guideway Modernization Formula program. However, in another respect, the State of Good Repair Grants Program is very different. State of Good Repair funds cannot be used to build or acquire facilities, equipment, or rolling stock to expand a recipient's service, as could former Fixed Guideway Modernization formula funds. In MAP-21, through the mandate for a national TAM system under 49 U.S.C. 5326, Congress is requiring FTA to establish a systematic means for TAM by all operators of public transportation, for all modes of public transportation, throughout the United States. This national system will be based on the definition of the term *state of good repair* that will be developed through rulemaking—and performance measures for making improvements in the condition of the transit agencies' facilities, equipment, rolling stock, and infrastructure. Moreover, through the tiered formula of the State of Good Repair Grants Program, Congress is targeting the largest amounts of federal financial assistance to the operators of public transportation most in need of that assistance, for the express purpose of improving the condition of those operators' existing assets.

The State of Good Repair Grants Program also differs from the former Fixed Guideway Modernization Program in terms of how funds are awarded. Originally, the former Fixed Guideway Modernization funds were awarded on a discretionary basis, but with the enactment of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240, Congress changed the Fixed Guideway Modernization program to award the funds by formula. In 1998, with the enactment of the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178, Congress modified the Fixed Guideway Modernization formula by increasing the number of funding tiers from four to seven. In 2005, with the enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, Congress kept the number of funding tiers at seven, but refined the tiers so that the funds in the first four tiers were allocated based on the data used to apportion the funds in federal fiscal year (FY) 1997, and the funds in the last three tiers were apportioned based on the latest available route miles and revenue vehicle miles on segments at least seven years old, as reported to the NTD. Thus, with the enactment of MAP-21 in 2012, the new structure of tiers under the State of Good Repair Grants Program differs a great deal from the tiered structure of the Fixed Guideway Modernization formula programs under the previous authorization statutes.

Under MAP-21, the State of Good Repair Grants Program has a two-tier structure: High Intensity Fixed Guideway and High Intensity Motorbus. The High Intensity Fixed Guideway tier comprises 97.15 percent of yearly apportionments. Fifty percent of that is based on the FY 2011 Fixed Guideway Modernization SAFETEA-LU formula, and the other 50 percent is

based on revenue vehicle miles and route miles. The High Intensity Motorbus tier comprises 2.85 percent of yearly apportionments with 60 percent based on revenue vehicle miles and 40 percent based on route miles of buses operating on high occupancy vehicle (HOV) lanes. See Chapter III for more details related to the tier structure of the program.

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CHAPTER II

PROGRAM OVERVIEW

1. STATUTORY AUTHORITY. The State of Good Repair Grants Program is authorized by section 20027 of MAP-21, as codified at 49 U.S.C. 5337. The secretary may make grants under this section to assist state and local governmental authorities in financing capital projects to maintain public transportation systems in a state of good repair, including projects to replace and rehabilitate: rolling stock; track; line equipment and structures; signals and communications; power equipment and substations; passenger stations and terminals; security equipment and systems; maintenance facilities and equipment; operational support equipment, including computer hardware and software; development and implementation of a transit asset management (TAM) plan; and other replacement and rehabilitation projects the secretary determines appropriate. 49 U.S.C. 5337(b)(1).

The Catalog of Federal Domestic Assistance (CFDA) number used in the State of Good Repair Grants Program is 20.525.

2. PROGRAM GOALS. MAP-21 places new emphasis on rehabilitating and replacing aging transportation infrastructure by establishing the State of Good Repair Grants Program. The State of Good Repair Grants Program defines eligible recapitalization and rehabilitation activities with a goal of bringing fixed guideway systems and high intensity motorbus systems into a state of good repair. Under MAP-21, and after completion of the relevant rulemaking, recipients will be required to establish and use an asset management system and report on the conditions of assets, and thereby develop transit capital programs that support asset management and investments to improve the state of good repair. 49 U.S.C. 5326.

3. FTA ROLE IN PROGRAM ADMINISTRATION.

- a. FTA's headquarters office 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 State of Good Repair Grants Program;
- (2) apportions funds annually to states and designated recipients;
- (3) develops and implements financial management procedures;
- (4) initiates and manages program support activities; and
- (5) conducts national program reviews and evaluations.

- b. FTA's regional offices are responsible for the day-to-day administration of the program. Regional offices:

- (1) review and approve grant applications for designated and direct recipients;

- (2) obligate funds for approved grant applications;
 - (3) work with recipients to implement the annual program;
 - (4) provide technical assistance;
 - (5) receive recipient certifications and amendments to the program of projects;
 - (6) monitor and close grants; and
 - (7) conduct triennial reviews and management reviews every three years or as circumstances warrant, and other reviews as necessary.
4. DESIGNATED RECIPIENT ROLE IN PROGRAM ADMINISTRATION. FTA apportions State of Good Repair funds to designated recipients of UZAs that have high intensity fixed guideway and high intensity motorbus systems operating at least seven years. The designated recipients are responsible for receiving and apportioning the State of Good Repair Grants to eligible projects within the applicable UZA. The designated recipients have the principal authority and responsibility for administering funds.

The designated recipients of the State of Good Repair Grants Program are generally the same as under the Urbanized Area Formula Grants Program, 49 U.S.C. 5307, in UZAs with high intensity fixed guideway and high intensity motorbus systems that have been in operation for at least seven years. Refer to Circular 9030.1E (Urbanized Area Formula Program) for the process of recipient designation.

5. DIRECT RECIPIENT AND SUBRECIPIENT ELIGIBILITY.

- a. Authorizing a direct recipient. A designated recipient may authorize another public entity to become a “direct recipient” for State of Good Repair funds. A direct recipient is a public entity that is eligible to apply for and receive grants directly from FTA. A designated recipient may make this authorization one time or at the time of each application submission, at the option of the designated recipient. The designated recipient must inform FTA of the arrangement in a “split” or “suballocation” letter that establishes the allocation of State of Good Repair Grants funds in the UZA.

Upon the award of a grant to the direct recipient, the designated recipient, the direct recipient, and FTA execute a supplemental agreement that:

- (1) releases the designated recipient from any liability under the grant agreement;
- (2) authorizes the direct recipient to receive and dispense the federal funds; and
- (3) assigns liability under the grant to the direct recipient.

Such a supplemental agreement is required for all recipients in UZAs under 200,000 in population,¹ as well as for any recipients in UZAs with populations of at least 200,000 that are not a designated recipient. A sample supplemental agreement is provided in Appendix C of this circular.

- b. Pass-through Arrangements. A State of Good Repair Grants recipient, whether a designated recipient or direct recipient, may choose to pass its grant funds through to another entity (subrecipient) to carry out the purpose of the recipient's agreement with FTA. The subrecipient must be another eligible public entity.
- (1) To establish a pass-through agreement, the recipient must enter into a written agreement with the subrecipient that assures FTA that the subrecipient will comply with its obligation to satisfy the requirements of the grant agreement.
 - (2) A recipient choosing to pass through funds must inform the FTA regional office of the arrangement in its grant application or through other documentation.
 - (3) The recipient must also inform FTA of any changes in that arrangement during the life of the project.

Unlike a supplemental agreement between a designated recipient (actual recipient) and FTA, a pass-through arrangement to a subrecipient does not relieve the recipient of its responsibilities to carry out the terms and conditions of the grant agreement.

6. FTA OVERSIGHT. Congress has charged FTA with conducting reviews of recipients or requiring that recipients have independent audits conducted on their programs to determine whether the recipients have met the program's requirements and certifications.

FTA performs a triennial review at least once every three years to evaluate the performance of each Urbanized Area Formula Grants Program recipient. 49 U.S.C. 5307(f)(2). FTA must ensure that the recipient is carrying out its program in compliance with federal statutory and administrative requirements. Triennial reviews of recipient performance allow FTA to determine if the recipient is complying with the certifications it has made.

FTA may also conduct reviews or audits in the areas of technical capability and capacity, procurement, financial management, civil rights, drug and alcohol, safety, and security in addition to the triennial review. When FTA evaluations or independent audits identify compliance deficiencies, FTA provides technical assistance to the recipient to facilitate compliance with federal requirements. FTA may reduce or withdraw financial assistance as a result of review findings or withhold further grants until the recipient achieves compliance.

The Single Audit Act, Pub. L. 98-502 (1984) (codified as amended at 31 U.S.C. 7501, *et seq.*), as implemented by OMB Circular A-133, also requires recipients of federal awards resulting in expenditures of \$750,000 or more to have independent audits conducted annually.

¹ By definition, most designated recipients will only be named for urbanized areas of 200,000 or more in population. 49 U.S.C. 5302(4).

Projects funded under the State of Good Repair Grants Program may also be subject to FTA's Project Management Oversight requirements, 49 U.S.C. 5327, applicable to major capital projects. FTA's implementing regulations, 49 CFR 633.5, define a major capital project to include any project that "involves the rehabilitation or modernization of an existing fixed guideway with a total project cost in excess of \$100 million" or any other project that the administrator "determines is a major capital project because the project management oversight program will benefit specifically the agency or the recipient." FTA's implementing regulations also describe characteristics that are typical of the latter kind of major capital project.

7. RELATIONSHIP TO OTHER PROGRAMS. Other federal transit programs may provide support for State of Good Repair Grants projects, and State of Good Repair Grants projects may in turn enhance the effectiveness of those other programs. The following discusses some programs that are related to the State of Good Repair Grants Program, including programs that have been repealed but for which funding remains available under prior authorizations, and those newly authorized under MAP-21.
 - a. Repealed Programs: MAP-21 repealed a number of public transportation programs that existed under the previous authorization. Funds that were authorized under these programs remain available for obligation in a grant until the applicable statutory period of availability expires, or until the funds are fully expended, rescinded by Congress, or otherwise reallocated. The relationship of each of these repealed programs to the State of Good Repair Grants Program is described below.

(1) Clean Fuels Grant Program (formerly 49 U.S.C. 5308).

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

The program was established under the Transportation Equity Act for the 21st Century (TEA-21) and was repealed under MAP-21. Funds allocated under this program in FY 2012 and prior years will remain available for obligation until they lapse or are expended. Funds apportioned for this program are subject to the program rules and requirements at the time they were apportioned.

Eligible recipients were designated recipients as defined in 49 U.S.C. 5307(a)(2), in UZAs over 200,000 in population, and states for UZAs with populations of less than 200,000, for areas that are designated as nonattainment or maintenance areas for ozone or carbon monoxide. Nonurbanized areas were not eligible recipients under this program.

FTA implemented this program through a regulation at 49 CFR part 624 and provided guidance for the program in Chapter III of FTA Circular 9300.1, "Capital Investment Program Guidance and Application Instructions."

FTA does not foresee any future allocations of funding under this program. Grants under this program are subject to the applicable requirements of 49 U.S.C. 5307. To be eligible for funding under this program, projects must be included in a TIP and/or STIP.

(2) Discretionary Bus and Bus Facilities Program (formerly 49 U.S.C. 5309).

The former Bus and Bus Facilities Program was a discretionary grant program for bus transit projects. Allocations of funding under this program were made either through congressional direction (“earmarks”) or through a competitive, discretionary solicitation of proposals. This program was repealed under MAP-21 and replaced with the Bus and Bus Facilities Formula Program at 49 U.S.C. 5339.

From 2010 through 2012, FTA allocated discretionary funding under this program to proposals solicited through several notices of funding availability (NOFAs). The NOFAs identified eligible project types and discretionary selection criteria and were based on specific policy initiatives, including:

- (a) State of Good Repair Initiative;
- (b) Bus Livability Initiative; and
- (c) Veterans Transportation and Community Living Initiative.

Funds awarded in pursuant to these NOFAs are available for obligation until they lapse, and are subject to the program terms and requirements at the time of allocation. Additional information on the former Bus and Bus Facilities Program is available in FTA Circular 9300.1B.

b. New and Revised Programs Under MAP-21.

(1) Urbanized Area Formula Grants Program (49 U.S.C. 5307).

The Urbanized Area Formula Grants Program provides funding for capital assistance, planning, and operating assistance for public transportation in urbanized areas. For small urbanized areas with populations less than 200,000, FTA apportions funds to the governor or the governor’s designee for use in small urbanized areas. The Virgin Islands are considered a small urbanized area for the purposes of this program. 49 U.S.C. 5307(g). Thus, FTA apportions Urbanized Area Formula funds to the Virgin Islands in lieu of Rural Area Formula funds.

In large urbanized areas with populations over 200,000, FTA makes funds available to designated recipient for capital and planning assistance. A number of urbanized area recipients of Urbanized Area Formula funds also receive Rural Area Formula funds to carry out projects in outlying rural areas. The governor has the authority to transfer Urban Formula funds apportioned to the state for small urbanized areas to supplement the state’s Rural Formula apportionment. 49 U.S.C. 5336(f). The governor may also transfer Section 5311 funds to supplement the state’s apportionment of Section 5307 funds for small urbanized areas. These transfer provisions give governors flexibility to

allocate formula transit funds in both urbanized and rural areas to enable states to fully utilize available funds.

Guidance for the Urbanized Area Formula Grants Program is available in FTA Circular 9030.

(2) Fixed Guideway Capital Investment Program – New and Small Starts and Core Capacity Improvements (49 U.S.C. 5309).

The Fixed Guideway Capital Investment Grants Program is a discretionary grant program that funds the construction of new fixed guideway systems or extensions to existing fixed guideway systems and, as amended by MAP-21, projects that will expand the core capacity of existing fixed guideway corridors. 49 U.S.C. 5309. States and local governmental authorities are eligible applicants for these funds.

Eligible projects include rapid rail (heavy rail), commuter rail, light rail, hybrid rail, trolleybus (using overhead catenary), cable car, streetcar, passenger ferries, and bus rapid transit. The Small Starts program also includes corridor-based bus rapid transit systems that do not operate on a separate fixed guideway but include features that emulate the services provided by rail fixed guideway, including defined stations, traffic signal priority, and short headway bidirectional services for a substantial part of weekdays and weekend days. The Core Capacity Improvement program provides funds for substantial, corridor-based investments in existing fixed guideway systems that are at capacity or will be in five years. Core Capacity Improvement projects must increase the capacity of the existing fixed guideway system in the corridor by at least 10 percent, and must not be state of good repair projects.

Projects become candidates for funding under this program by successfully completing steps in the process defined in 49 U.S.C. 5309 and obtaining a satisfactory rating under the statutorily defined criteria. For New Starts and Core Capacity Improvement projects, the steps in the process include project development, engineering, and construction. For Small Starts projects, the steps in the process include project development and construction. New Starts and Core Capacity Improvement projects receive construction funds from the program through a full funding grant agreement (FFGA) that defines the scope of the project and specifies the total multiyear federal commitment to the project. Small Starts projects receive construction funds through either a single-year grant or a multiyear grant agreement (Small Starts Grant Agreement) that defines the scope of the project and specifies the federal commitment to the project.

In principle, funds available under the formula State of Good Repair Grants Program can be used to complement New Starts, Small Starts, and Core Capacity Improvement projects funded under the discretionary Fixed Guideway Capital Investment Program. Logically, in some instances, the sponsor of a New Starts, Small Starts, or Core Capacity Improvement project will want to repair or replace existing facilities, equipment, rolling stock, or infrastructure that is interdependent with that project. However, by law, discretionary funds for a Core Capacity Improvement project cannot

be used to “maintain a state of good repair of the existing fixed guideway system,” or “to improve general station facilities or parking, or acquisition of rolling stock alone.” 49 U.S.C. 5309(a)(2) and (b)(2).

Additional information about the Fixed Guideway Capital Investment Program is available at <http://www.fta.dot.gov/12304.html> or the final rule on Major Capital Investment Projects at <http://www.gpo.gov/fdsys/pkg/FR-2013-01-09/pdf/2012-31540.pdf>.

(3) Bus and Bus Facilities Formula Program (49 U.S.C. 5339).

The Bus and Bus Facilities Formula Program is a formula grant program that provides funding to UZAs for bus-related capital projects. 49 U.S.C. 5339. This program was established under MAP-21, which concurrently repealed the Discretionary Bus and Bus Facilities Grant Program.

Under the new Bus and Bus Facilities Formula Program, funds are apportioned through a national distribution and a statutory formula. 49 U.S.C. 5339(d). The national distribution provides a flat amount of funding to each state and territory. The formula provides additional funds based on population, vehicle revenue miles, and passenger miles. Urbanized Area Formula Program requirements apply to recipients of grants under the Bus and Bus Facilities Formula Program. Funds apportioned under national distribution may be transferred by the governor of a state to supplement amounts apportioned under the Rural Area Formula Program or Urbanized Area Formula Program. 49 U.S.C. 5339(e).

Additional information on the Bus and Bus Facilities Formula Program will be published in a separate FTA circular.

(4) Transit-Oriented Development Planning Pilot Program.

The Transit-Oriented Development Planning Pilot Program was established by Section 20005(b) of MAP-21. This program provides funding to advance planning efforts that support transit-oriented development associated with new fixed guideway and core capacity improvement projects. Transit-oriented development focuses growth around transit stations to promote ridership, affordable housing near transit, and revitalized downtown centers and neighborhoods and encourages local economic development. Funds from the Urbanized Area Formula Grants Program may be used to support planning projects that receive funding under this program, or may be used for capital projects (as defined by 49 U.S.C. 5302), relating to transit-oriented development projects.

(5) Federal Lands Access Program (23 U.S.C. 204).

The Federal Lands Access Program is a grant program established under MAP-21 and administered by the Federal Highway Administration (FHWA). This program provides funding to states and local governments for projects to improve transportation facilities that provide access to, are adjacent to, or are located within federal lands, and for which

ownership or maintenance responsibility is vested in the state or local government.

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

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

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

(6) Federal Highway Administration "Flexible" Programs.

Certain FHWA transportation programs, such as the Surface Transportation Program (STP) or Congestion Management and Air Quality Program (CMAQ), allow recipients to transfer funds to FTA for public transportation projects that are eligible under the FHWA program and under Section 5307. When such "flexible fund" transfers are made for eligible transit projects, FTA will administer these funds in a separate Section 5307 grant. Guidance on the eligibility of these funds for transfer and associated requirements is provided in FTA Circular 9030.1E.

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CHAPTER III

GENERAL PROGRAM INFORMATION STATE OF GOOD REPAIR GRANTS

1. APPORTIONMENT OF PROGRAM FUNDS. Under MAP-21, FTA will apportion State of Good Repair Grants Program funds to designated recipients in UZAs with fixed guideway and high intensity motorbus systems that have been in operation for at least seven years. Funds are apportioned by a statutory formula using data reported to the NTD.

a. Appropriations for the State of Good Repair Grants Program are apportioned as follows:

(1) 97.15 percent of the total State of Good Repair Grants Program appropriation is allocated to UZAs for fixed guideway systems that have been in operation for at least seven years. The apportionments to UZAs with high intensity fixed guideway systems are determined by two equal elements:

(a) Half of the fixed guideway apportionment is distributed according to the proportion a recipient would have received of the FY 2011 apportionment for 49 U.S.C. 5337, as it then existed, if calculated using the current version of 49 U.S.C. 5336(b)(1) and the current definition of “fixed guideway” at 49 U.S.C. 5337(a); and

(b) Half of the fixed guideway apportionment is distributed according to the recipient’s proportion of the vehicle revenue and directional miles in all UZAs, with revenue miles weighted for 60 percent of this element and directional miles weighted for 40 percent of this element, and counting only those fixed guideway segments that have been in revenue service for at least seven years. 49 U.S.C. 5337(c).

The fixed guideway amount apportioned to an area in any fiscal year shall not decrease by more than 0.25 percent in comparison to the previous fiscal year.

(2) 2.85 percent of the total State of Good Repair Grants Program appropriation is allocated to UZAs with high intensity motorbus systems that have been in operation for at least seven years. The apportionments to UZAs with high intensity motorbus systems are 60 percent based on vehicle revenue miles and 40 percent based on directional route miles, counting only those segments of high intensity motorbus systems that have been in revenue service for at least seven years. 49 U.S.C. 5337 (d)(4).

FTA is required to apportion funds appropriated for the State of Good Repair Grants Program no later than the tenth day after the date the amounts are appropriated by Congress, or October 1 of the fiscal year for which the amounts are appropriated, whichever is later. FTA publishes State of Good Repair Grants apportionments in the *Federal Register* along with formula apportionments for other FTA programs and congressional designations for discretionary programs.

Vehicle revenue miles and directional route miles that are attributable to a UZA must have been placed in revenue service at least seven years before the first day of the fiscal year. A

threshold level of more than one mile of fixed guideway is required in order to receive State of Good Repair funds. Therefore, UZAs reporting one mile or less of fixed guideway mileage under the NTD are not included.

FTA obtains data for high intensity motorbus and fixed guideway vehicle revenue miles and high intensity motorbus and fixed guideway directional route miles from validated data reported in the NTD. For purposes of the formula, FTA may elect to not use data that are submitted late or data that FTA cannot validate.

Transit providers making data submissions should refer to the current editions of the NTD Reporting Manuals and Uniform System of Accounts in reporting to the NTD. Copies of these publications and other NTD policy statements and reporting guidance can be found on the NTD website at: <http://www.ntdprogram.gov/> and from the following address:

FTA Office of Budget and Policy
Office of Strategic Planning & Analysis
1200 New Jersey Avenue, SE
Washington, DC 20590
Phone: 202-366-4050

The National Transit Institute provides annual workshops on the NTD for persons reporting to the database on behalf of recipients.

2. AVAILABILITY OF FUNDS. State of Good Repair Grants Program funds are available to FTA for obligation during the fiscal year of appropriation plus three additional years. For example, funds apportioned in FY 2013 are available until the end of FY 2016 (September, 30, 2016). Any State of Good Repair funds that remain unobligated at the end of the period of availability are added to the next year's program apportionment and are reapportioned under the State of Good Repair Program's statutory formula.
3. ELIGIBLE RECIPIENTS. State and local government authorities in UZAs with fixed guideway and high intensity motorbus systems in revenue service for at least seven years.

The State of Good Repair Grants Program also provides that Southwestern Connecticut, Northeastern New Jersey, and Baltimore Commuter Rail shall receive direct apportionments of the fixed guideway portion of the State of Good Repair Grants Program. 49 U.S.C. 5337(c)(6)(B).

4. ELIGIBLE PROJECTS.
 - a. State of Good Repair Grants funds are available for capital projects that maintain a fixed guideway or a high intensity motorbus system in a state of good repair, including projects to replace and rehabilitate:
 - (1) rolling stock;
 - (2) track;

- (3) line equipment and structures;
- (4) signals and communications;
- (5) power equipment and substations;
- (6) passenger stations and terminals;
- (7) security equipment and systems;
- (8) maintenance facilities and equipment; and
- (9) operational support equipment, including computer hardware and software.

Eligible activities within replacement projects include the replacement of older features with new ones. Eligible activities within rehabilitation projects include the incorporation of current design standards and additional features required by federal, state, and local laws. Equipment, vehicles, and facilities to be replaced must have reached or exceeded its minimum useful life to be eligible for State of Good Repair Grants funds.

- b. FTA may approve of other appropriate replacement and rehabilitation projects not listed here. 49 U.S.C. 5337(b)(1)(K).
- c. Projects that develop and implement TAM plans are eligible.
- d. Preventive maintenance is eligible.
- e. Overhauls are eligible in accordance with the latest Circular 5010.1D Grant Management Requirements.
- f. Leasing of capital assets being replaced as part of State of Good Repair efforts are eligible.
- g. Rebuilds are eligible in accordance with the latest Circular 5010.1D Grant Management Requirements.
- h. In addition to replacement and rehabilitation, new maintenance facilities or maintenance equipment are eligible if needed to maintain the existing fixed guideway system or equipment.
- i. Projects that solely expand capacity or service are not eligible projects. New maintenance facilities or maintenance equipment required solely for expanded capacity or service are not eligible. However, FTA will permit expansion of capacity within replacement projects to meet current or projected short-term service needs (e.g., replacing a maintenance facility with a larger facility, or replacing a bus with a larger bus). For any expansion elements included in a replacement project, the grantee will need to address how the project meets

current or short term service levels. FTA will review the reasonableness of such expansion elements when reviewing the grant.²

- j. Funds apportioned for high intensity fixed guideway shall be available exclusively for fixed guideway projects. High intensity motorbus funds can be used interchangeably on any eligible high intensity motorbus or high intensity fixed guideway project.
- k. High intensity motorbus funds must be used for capital expenses associated with public transportation systems that provide regular, continuing shared-ride surface transportation services to the general public. Eligible projects include maintenance, rehabilitation, and replacement of vehicles that are used for providing transit service on high occupancy vehicle lanes, and equipment and facilities that are used for maintaining the vehicles. Projects that maintain and rehabilitate high occupancy vehicle lanes are not eligible for the high intensity motorbus funds. Projects that maintain and rehabilitate capital assets used for bus service other than on HOV lanes are not eligible for the high intensity motorbus funds.
- l. While funds for high intensity fixed guideway are apportioned based on segments that have been in revenue service for seven years or longer, a recipient may use the apportioned funds for eligible projects on any part of its fixed guideway system. High intensity motorbus funds can also be used for eligible projects on any part of its high intensity motorbus system.

Note: When replacing or rehabilitating eligible facilities or equipment, recipients should consider making assets resilient to damage from potential natural disasters to the extent practicable. As stated previously, recipients may incorporate current design standards into State of Good Repair projects, including those that decrease an asset's vulnerability to future disasters. In addition, recipients may replace an eligible facility at a different location (from its existing location) when driven by resiliency decision-making or when replacing it at the existing location is not practical or feasible.

- 5. **FEDERAL SHARE OF PROJECT COSTS.** The federal share of eligible capital costs shall be 80 percent of the net capital project cost, unless the grant recipient requests a lower percentage. Net project cost is that portion of the cost of a project that cannot reasonably be financed from the recipient's farebox revenue.
 - a. **Exceptions.** The federal share may exceed 80 percent for certain projects related to the Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*) (ADA) or the Clean Air Act (42 U.S.C. 7401 *et seq.*) (CAA).
 - (1) **Acquiring Vehicles.** A grant for a project that involves acquiring vehicles for purposes of complying with or maintaining compliance with the ADA or CAA is for 85 percent of the net project cost. 49 U.S.C. 5323(i)(1)(A).

² Funds apportioned for fixed guideway purposes are limited to use on fixed guideway projects by 49 U.S.C. 5337(c)(5). No comparable limitation is imposed in the high intensity motorbus subsection.

- (2) Acquiring Vehicle-related Equipment or Facilities. A grant for a project that involves acquiring vehicle-related equipment or facilities required by the ADA or for purposes of complying or maintaining compliance with the CAA (including clean fuel or alternative fuel vehicle related equipment or facilities) is for 90 percent of the net project cost of such equipment or facilities attributable to compliance with those Acts. 49 U.S.C. 5323(i)(1)(B). FTA considers vehicle-related equipment to be equipment on and attached to a vehicle.

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

6. CAPITAL COST OF CONTRACTING. Some FTA recipients turn to an outside source to obtain public transportation service, maintenance service, or vehicles that the recipient will use in public transportation service. When recipients contract for such service, FTA will provide assistance with the capital consumed in the course of the contract. In the case of a contractor providing vehicles for public transportation service, the capital consumed is equivalent to the depreciation of the vehicles in use in the public transportation service during the contract period. In the case of a maintenance contract, the capital consumed may be, for example, depreciation of the maintenance garage, or depreciation of the machine that lifts the vehicle. Capital consumed also may include a proportionate share of the interest the contractor might pay out as the contractor purchases and makes available to the recipient these capital assets. FTA refers to the concept of assisting with capital consumed as the “capital cost of contracting.” FTA will provide assistance at the 80/20 FTA/local share ratio for the capital cost of contracting.

Only the costs attributable to privately owned assets are eligible under this policy. With one exception, items purchased with federal, state, or local government assistance are not eligible. The exception is a privately owned public transportation vehicle in which the recipient has invested FTA funds from the Over-the-Road Bus Accessibility Program to finance incremental capital costs of complying with the ADA. Capital consumed for service or maintenance in the provision of service outside the public transportation portion of the contract, such as for charter or school bus service, is not an eligible cost. In addition, FTA provides assistance for preventive maintenance, which is defined as all maintenance. In some instances, the recipient’s contract with outside sources both for maintenance and for public transportation service, the contractor provides both maintenance and vehicles. In such cases, both FTA’s capital cost of contracting and preventive maintenance standards will apply.

7. LOCAL SHARE OF PROJECT COSTS. After the appropriate federal share is established, the applicant must provide the local share of the net project cost in cash (or in-kind) from:
- a. Cash from nongovernment sources other than farebox revenues from providing public transportation services;
 - b. Non-farebox revenues from the operation of public transportation service, such as the sale of advertising and concession revenues. A voluntary or mandatory fee that a college,

university, or similar institution imposes on all its students for free or discounted transit service is not farebox revenue for purposes of this provision;

- c. Amounts received under a service agreement with a state or local social service agency or private social service organization;
- d. Undistributed cash surpluses, replacement or depreciation cash funds, reserves available in cash, or new capital;
- e. Amounts appropriated or otherwise made available to a department or agency of the government (other than DOT);
- f. In-kind contribution such as the market value of in-kind contributions integral to the project may be counted as a contribution toward local share. See more specific discussion of use of real property as an in-kind contribution in Section 9.g, below. The Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (the Common Grant Rule) describes detailed rules for eligibility, valuation, and accounting for the local matching share. 49 CFR 18.24.

8. ADDITIONAL SOURCES OF LOCAL SHARE.

- a. Revenue Bond Proceeds as Local Share. A recipient of State of Good Repair Grants Program funds may use the proceeds from the issuance of revenue bonds as part of the local match for a capital project, with prior FTA approval. 49 U.S.C. 5323(e). Farebox revenues are one type of revenue that may be used to secure the bonds. Use of the proceeds of revenue bonds as local share will be approved only if FTA finds that the aggregate amount of financial support for public transportation in the UZA provided by the state and affected local governmental authorities during the next three fiscal years, as programmed in the STIP, is not less than the aggregate amount provided by the state and affected local governmental authorities in the UZA during the preceding three fiscal years.
- b. Transportation Development Credits (formerly referred to as Toll Revenue Credits). A state may use, as a credit toward a project's local share, certain expenditures it has made with toll revenues. 23 U.S.C. 120(j). The amount of credit toward local share to be earned by a state is based on revenues generated by toll authorities within the state that are used by the authorities to build, improve, or maintain highways, bridges, or tunnels that serve interstate commerce. A recipient wishing to apply this provision should discuss with its state department of transportation the availability of transportation development credits, defraying the need for local share in matching FTA grants. FHWA oversees the determination of transportation development credit within each state, and FTA follows the FHWA methodology for calculating these credits as match (<http://www.fhwa.dot.gov/specialfunding/020807.cfm>). FTA will not approve a retroactive application of transportation development credits.

The effect of applying transportation development credits is that FTA, in essence, provides 100 percent of the total net project cost. For example, if the actual cost of the asset the applicant will purchase is \$500,000, FTA's share at 80 percent equals \$400,000. The

remaining \$100,000 match is transportation development credits, so additional federal funds are needed to equal \$500,000 or 100 percent of the net project cost.

FTA calculates a project using transportation development credits as shown in the example below:

Actual cost of the asset	\$500,000
	=====
Federal Share (80%)	\$400,000
Local Share (20%)	<u>\$100,000</u> (from toll revenue credits)
	\$500,000
	=====

In FTA electronic award management system, the recipient will enter the following:

Total project cost	\$500,000
Federal Share	\$500,000

FTA requires the recipient to state within the comment section of the FTA electronic award management system that transportation development credits provide \$100,000 for the local share.

- c. Use of Program Income as Local Share. Recipients may use program income generated by an earlier grant as the local share for a subsequent eligible public transportation project. Recipients may not use program income as the local share for the grant that generated the income. Program income means gross income received by the grantee or subgrantee directly generated by a grant-supported activity, or earned only as a result of the grant agreement during the grant period. In general, program income includes income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from the sale of advertising and concessions, from social service contract revenue, and from the sale of commodities or items fabricated under a grant agreement. Except as otherwise provided in regulations, program income does not include interest on grant funds; nor does program income include rebates, credits, discounts, refunds, and interest earned on any of them.

FTA Circular 5010.1D, "Grant Management Requirements," discusses program income in some depth, as does 49 CFR 18.25. FTA Circular 5010.1D notes that recipients may retain program income so long as they use it for public transportation purposes that is for allowable capital and operating expenses. For additional information on program income, please refer to FTA Circular 5010.1D.

The recipient's accounting system must be capable of identifying program income and the purpose for which the recipient used it. The recipient must account for program income in its accounting system, which FTA subjects to audit. The Federal Financial Report requires the reporting of program income.

In a grant application requesting operating assistance, the applicant must deduct farebox and other revenues from operating costs to arrive at the net project cost of an operating assistance project. See Appendix C, "Operating Assistance Projects," of this circular for

assistance in calculating the net project cost of a grant requesting operating assistance. In no event may the applicant use farebox revenue as local share for the project that generated those revenues, although the applicant may use farebox revenue to support bonds issued to finance capital projects.

- d. Funds Other than Program Income. Revenue derived from an activity that is not federally assisted is not program income.

Generally, FTA does not consider sales proceeds from the disposition of FTA-funded equipment and excess real property to be program income. Recipients may retain sales proceeds as program income only if the transfer of the asset, as in some joint development activities, achieves the purpose of the grant. Refer to 49 CFR 18.25(g)(4). Recipients also may retain sales proceeds to undertake a like-kind exchange (see Appendix C of this circular), but the sales proceeds are not program income and recipients must not use them as local share.

Also, with prior FTA approval, and in accordance with the provisions of 49 U.S.C. 5334(h)(4), recipients may retain the proceeds of the sale of federally funded assets that are no longer needed for public transportation purposes, and use such proceeds to reduce the gross project cost of subsequent federally assisted public transportation capital projects. Recipients may not use such proceeds as local share.

The provisions of 49 U.S.C. 5334(h)(4) do not apply to proceeds from the sale of property that has not reached its minimum useful life. See FTA Circular 5010.1D, "Grant Management Requirements," for further discussion regarding the use of such proceeds.

- e. Proceeds Related to Social Security Act Funds as Local Share. Temporary Assistance for Needy Families (TANF) block grant funds in the form of Welfare-to-Work grants may not be used as local share for other federally assisted projects. 42 U.S.C. 603(a)(5)(C)(vii).
- f. Other Federal Funds. In a very limited number of situations, other federal funds may be eligible for inclusion in the local match. Such use is dependent upon agreement of the relevant federal agency. As an example, Community Development Block Grant funds administered by the Department of Housing and Urban Development (HUD) may be used to provide the local share of federal public transportation projects so long as the public transportation activities are:

- (1) eligible for assistance under the Community Development Block Grant Program; and
- (2) in compliance with applicable HUD regulations, "Community Development Block Grants."

42 U.S.C. 5305(a)(9); 24 CFR 570.201(g).

Profit from operations not related to public transportation may be included in the local match to the extent that such revenues are applied to cover eligible operating expenses.

- g. In-kind Contributions of Real Property. Grantees may use in-kind contributions of real property as part of the local matching share so long as the property to be donated is needed to carry out the scope of the approved project. The property can be owned and donated by the grantee or by a third party. The in-kind contribution allowance will be based on the current market value as independently appraised. Appraisals for property being donated, regardless of appraised value, must be submitted to the FTA regional or metropolitan office. FTA must review and concur on in-kind contributions of any value before federal funds are expended or the value is used as local match.

Credit can only be allowed for the value of the portion of real property used or consumed by the project. If part of a larger parcel is to be used as local match and the remaining subparcel is intended to be used at a future date for future match, the grantee is cautioned to clearly indicate the limits of the subparcel to be used as local match and the appraised amount associated with the subparcel. The remnant subparcel can then follow the same procedure for future local match. If the entire parcel is provided as a local match and no delineation is made related to possible use of the excess subparcel as overmatch, eligibility of the overmatch subparcel may be lost. If federal funds were used to purchase the property, only the non-federal share of such property may be counted as the value of the in-kind contribution.

Refer to the Common Grant Rule, 49 CFR 18.24, for detailed rules covering eligibility, valuation, and accounting for the local matching share, including in-kind donations.

9. ALTERNATIVE FINANCING. Recipients are encouraged to explore alternative methods of financing transit projects, in addition to grant funding. Alternative financing can involve combining multiple nontraditional sources of funding as well as federal, state, local, and private funding in support of transit capital needs.
- a. Approaches recipients might investigate include:
- (1) capital leasing arrangements;
 - (2) joint development;
 - (3) state economic development or revolving loan funds;
 - (4) state infrastructure bank loans;
 - (5) state and federal tax credit programs;
 - (6) special tax districts, such as transportation development districts, special benefit districts, and tax increment financing;
 - (7) exchanges of real property; and
 - (8) in-kind contributions.

b. Recipients with a dedicated funding source (e.g., sales tax proceeds, transportation development district proceeds, tax increment financing proceeds, and other revenue sources including user fees) may wish to consider a direct loan or loan guarantee, as provided under the Transportation Infrastructure Financing and Innovation Act (TIFIA). 23 U.S.C. 601 *et seq.* Eligible projects include any transit capital project which is anticipated to meet the threshold size. Threshold sizes for projects are:

- (1) \$50 million; or
- (2) \$25 million for rural projects and those in cities of 250,000 or less in population; or
- (3) \$15 million for intelligent transportation system (ITS) projects; or
- (4) 33 1/3 percent of the most recently completed fiscal year's federal highway formula apportionment for the state in which the project is located. 23 U.S.C. 602(a)(5).

TIFIA direct loans or loan guarantees must be repaid with non-federal funds. Multiple related projects constituting a program of projects may be grouped in order to meet the cost threshold as long as the credit assistance is secured by a common pledge of revenues.

Implementation of the TIFIA program is the responsibility of the secretary of Transportation. The FTA provides staff support for eligible transit loans, transit loan guarantees, and transit standby lines of credit. On July 31, 2012, the DOT issued a Notice of Funding Availability (NOFA), which announced the availability of funding and the revised TIFIA application process under MAP-21. Each potential applicant must submit a detailed Letter of Interest (LOI). The DOT will review submissions, on a rolling basis, to determine whether the project meets the requirements for TIFIA participation. DOT Credit Council provides policy directions and make recommendations to the secretary regarding the selection of projects for credit assistance with final approval by the secretary.

Contact:

Innovative Program Delivery Office
TIFIA Joint Program Office (HITJ)
U.S. Department of Transportation
1200 New Jersey Avenue, SE, Room E64-462
Washington, DC 20590

FAX: 202-366-0828

TIFIAcredit@dot.gov

<http://www.fhwa.dot.gov/ipd/tifia/index.htm>

10. DEFERRED LOCAL SHARE. A recipient may request on a case-by-case basis that all or a portion of the local share for a project be deferred until up to 100 percent of the federal funds have been drawn down. A request for the deferral must accompany the grant application. A recipient that intends to use deferred local share must receive FTA approval prior to the obligation of the grant. FTA will specify the terms and schedule for the deferral.

Approval is contingent upon the deferral resulting in benefits to transit and upon the recipient demonstrating that it has the financial capacity to complete the project. Local share cannot be

deferred indefinitely. When FTA approves the use of deferred local share, the local funds must be available and used to match drawdown federal funds in the time period specified by FTA's approval.

Generally, FTA will not retroactively approve deferral of local share. In exceptional circumstances, FTA may retroactively approve deferral of local share, for example in response to a catastrophic event such as a hurricane or flood by which sources of local funds are temporarily disrupted.

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CHAPTER IV

PLANNING AND PROGRAM DEVELOPMENT

1. TRANSIT ASSET MANAGEMENT (TAM).

- a. MAP-21 transformed the federal transit and federal-aid highway programs by requiring a transition to performance-driven, outcome-based approaches to transportation planning. As part of this change, MAP-21 has established new requirements for transit asset management to assist the nation's transit systems in assessing their capital needs and prioritizing capital investments to achieve a state of good repair. These new TAM provisions are codified at 49 U.S.C. 5326 and are applicable to all FTA recipients. FTA currently is developing a rulemaking to implement the National TAM System.
- b. The National TAM System has five elements:
 - (1) FTA must define the term "state of good repair," including objective standards for measuring asset conditions (49 U.S.C. 5326(b)(1));
 - (2) FTA must establish performance measures based on these SGR standards, and each FTA grant recipient must annually set targets based on these measures (49 U.S.C. 5326(c));
 - (3) Each FTA recipient and subrecipient must develop a TAM plan that includes an asset inventory with condition assessments and an investment prioritization (49 U.S.C. 5326(b)(2));
 - (4) Asset inventories, condition assessments, and performance targets must be reported to FTA (49 U.S.C. 5326(b)(3) and 5335(c)); and;
 - (5) FTA must provide technical assistance to those affected by these requirements, including an analytical process or decision support tool that allows recipients to estimate capital investment needs over time and assists recipients with asset investment prioritization (49 U.S.C. 5326(b)(4) and (5)).
- c. The goals, objectives, measures, and performance targets developed by recipients pursuant to TAM requirements must be integrated into statewide and metropolitan planning processes (49 U.S.C. 5303(h)(2)(D) and 5304(d)(2)(C)).
- d. Upon completion of FTA's TAM rulemaking, the State of Good Repair Grants Program will require that all projects funded by the program must be included in the TAM plans of the grant recipients. 49 U.S.C. 5337(b)(2). Additionally, recipients will be required to certify that they have implemented the TAM plans according to FTA's final implementing rule. 49 U.S.C. 5337(a)(4)(B).

2. **METROPOLITAN AND STATEWIDE PLANNING REQUIREMENTS.** A grant applicant requesting State of Good Repair Grants assistance must comply with the planning requirements of 49 U.S.C. 5303, 5304, and 5306. Before FTA may make grants to recipients, adequate planning must take place. The project proposed must be a product of the metropolitan planning process and/or the statewide and nonmetropolitan transportation planning process specified in 49 CFR part 613 and 23 CFR part 450.

Within each metropolitan planning area (described below), the metropolitan planning process is carried out by a metropolitan planning organization (MPO). An MPO is responsible for developing and adopting a long-range (twenty-year) metropolitan transportation plan, 49 U.S.C. 5303(i), and a short-term (four-year) transportation improvement program (TIP), 49 U.S.C. 5303(j). An MPO that serves an area designated as a transportation management area (TMA) must be composed of local elected officials, appropriate state officials, and officials of public agencies that operate major modes of transportation in the area, including representation by providers of public transportation. 49 U.S.C. 5303(d)(2).

All transit projects for which federal funds are expected to be used and that are within a metropolitan planning area's boundaries must be included in a TIP that has been approved of by the governor of a state, and in the statewide transportation improvement program (STIP) that has been approved by FTA and FHWA. Projects listed in the TIP must be consistent with the MPO's metropolitan transportation plan and projects listed in the STIP must be consistent with the long-range statewide transportation plan.

Projects funded under other FTA programs outside of the metropolitan planning boundaries, such as under the Rural Area Formula Grants Program, 49 U.S.C. 5311, are required only to be in the STIP. The grant application should identify in the appropriate section of the FTA electronic award management system the latest approved STIP (or amendments) containing the project, the appropriate page numbers or other identifying numbers, and a statement identifying the date that FTA and FHWA approved the STIP (or STIP amendment) that contains the proposed project.

Planning projects must be included in the Unified Planning Work Program (UPWP). An MPO may also include planning projects in its TIP for informational purposes.

Each project in the TIP/STIP must include sufficient descriptive material to identify the project or phase of the project. In addition, each project in the TIP/STIP must identify reasonably expected resources to carry out the project.

FTA and FHWA have issued joint planning regulations to carry out 49 U.S.C. 5303, 5304, and 5306. These regulations, "Statewide Transportation Planning" and "Metropolitan Transportation Planning," are set forth at 23 CFR part 450 and 49 CFR part 613. The regulations outline the requirements for state departments of transportation, MPOs, and public transportation providers to conduct a continuing, comprehensive, and coordinated transportation planning and programming process in metropolitan areas and states.

Refer also to FTA Circular 8100.1C, "Program Guidance for Metropolitan Planning and State Planning and Research Program Grants."

3. METROPOLITAN PLANNING AREAS. The joint FTA/FHWA transportation planning regulations at 23 CFR 450.312 include guidelines on determining the boundaries of a metropolitan planning area (MPA), which is determined by agreement between the MPO and the governor. The MPA boundaries at a minimum should include the entire existing UZA (as defined by the Bureau of the Census) plus the contiguous area expected to become urbanized within a twenty-year forecast period for the metropolitan transportation plan. An MPA boundary may encompass more than one UZA. The apportionment of funding under the Urbanized Area Formula Grants program, 49 U.S.C. 5307, is based entirely on Census-defined UZAs and is not affected by the designation or boundaries of MPAs or Transportation Management Areas (TMA).
4. TRANSPORTATION MANAGEMENT AREAS (TMA). All UZAs with a population of over 200,000 individuals are designated as TMAs. 49 U.S.C. 5303(k). The secretary of Transportation must designate any additional area as a TMA on the request of the governor and the metropolitan planning organization designated for the area. The planning process in TMAs has additional requirements, for example, a requirement for a congestion mitigation process, and requirements for certain representation on an MPO serving a TMA.
5. PERFORMANCE-BASED PLANNING. MAP-21 establishes a broad performance management program that brings significant changes to the metropolitan and statewide transportation planning processes. The performance-based approach to planning and decisionmaking will help MPOs, states, and providers of public transportation identify multimodal capital investment needs and project priorities in a transparent, accountable process. MAP-21 includes a number of provisions that integrate outcome-driven, performance-based planning into the existing processes by which states and MPOs develop their long-range plans, TIPs, and STIPs.
 - a. The metropolitan and statewide transportation planning process should provide for the establishment and use of a performance-based approach to transportation decision making to support the national goals described in 23 U.S.C. 150(b) and the general purposes described in 49 U.S.C. 5301. MPOs in the development of their metropolitan transportation plans and states in the development of their long-range statewide transportation plans must include a description of the transportation system performance measures and respective performance targets that address the performance measures established by the secretary pursuant to the federal-aid highways program, 23 U.S.C. 150(c), the national public transportation safety plan, 49 U.S.C. 5329(b), and the national TAM system, 49 U.S.C. 5326(c). 49 U.S.C. 5303(i)(2), 5304(f)(7).
 - b. The MPO's metropolitan transportation plan and the state's long-range statewide transportation plan must include a system performance report and subsequent updates evaluating the condition and performance of the transportation system with respect to established performance targets. 49 U.S.C. 5303(i)(2), 5304(f)(7).
 - c. TIPs and STIPs must include, to the maximum extent possible, a description of the anticipated effect of the TIP or STIP toward achieving the performance targets established in the metropolitan transportation plan or long-range statewide transportation plan, respectively, linking investment priorities to those performance targets. 49 U.S.C.

5303(j)(2)(D), 5304(g)(4).

FTA and FHWA will issue revisions to the joint planning rule, 23 CFR part 450, 49 CFR part 613, to implement these and other changes made by MAP-21 to metropolitan and statewide planning.

6. ROLES OF THE DESIGNATED RECIPIENT AND METROPOLITAN PLANNING ORGANIZATION IN ALLOCATING PROGRAM FUNDS.

Under the State of Good Repair Grants Program's fixed guideway subsection, the designated recipient is the entity selected to receive the amounts made available by Congress and apportioned by FTA. The designated recipient distributes its apportionment within its UZA or state to state or regional authorities or to other public agencies.

An MPO, which may or may not also serve as the designated recipient of State of Good Repair Grants funding, is designated by agreement of the governor and local elected officials that together represent at least 75 percent of the affected population (including the largest incorporated city based on population) or in accordance with state or local law. 49 U.S.C. 5303(d). The MPO is the forum for cooperative decision making to carry out the transportation planning process. As discussed above, the MPO is also responsible for the development and adoption of the metropolitan transportation plan and the TIP. The TIP must include every capital and operating project for which the designated recipient will request assistance from FTA.

7. SUBAREA ALLOCATION. In those UZAs with more than one designated recipient or other recipients, the designated recipient should determine the suballocation of program funds cooperatively with other local transit providers and may include the MPO. Designated recipients should determine a subarea allocation fairly and rationally through a process based on local needs.

Designated recipients must provide documentation to FTA showing how the State of Good Repair Grants allocation will be split among them. FTA may request a written agreement signed by a representative of each designated recipient or entity involved.

To assist in making such subarea allocations, any UZA may request that the appropriate FTA regional office coordinate with FTA headquarters staff in providing the necessary disaggregate data used in apportioning the total UZA's share of the entire State of Good Repair Grants Program resource.

8. AVAILABILITY OF FHWA "FLEXIBLE FUNDS" FOR TRANSIT PROJECTS.

- a. Authority. Some funds appropriated to FHWA can be used to support a transit project, and some funds appropriated to FTA can be used to support a highway project. These "flexible" or "flex" funds can be transferred between FHWA and FTA for eligible transit or highway projects for more efficient administration. Flexible funding authority facilitates a multimodal approach to meeting transportation needs at both the statewide and local levels by giving the local area the option of choosing which federal surface transportation funds should be used for a particular project or activity based on local planning priorities, not on a restrictive definition of program eligibility.

Flexible funds may only be used for a purpose for which they were originally authorized. Flexible funds transferred to FTA are administered under applicable FTA program requirements. Funding transfers are permitted only for projects contained in an approved TIP or STIP. State of Good Repair Grants are not eligible for highway projects and may not be transferred to FHWA.

- b. Share Requirements. Funds that are flexed between FHWA and FTA retain their original requirements related to the non-federal share of projects. 23 U.S.C. 104(f)(1)(B) and 49 U.S.C. 5334(i)(2). For example, the federal transit program has a provision that allows a higher federal share—85 percent of the net project cost—of vehicle acquisitions that comply with the ADA or CAA. 49 U.S.C. 5323(i)(1)(A). The federal-aid highway program does not have a similar provision. If Surface Transportation Program, 23 U.S.C. 133, funds are flexed from FHWA to FTA for administration, the maximum federal share of any project assisted with those funds would remain the lower FHWA limit.
- c. Use. FHWA funds that are authorized for transit projects may be transferred to FTA and used for eligible public transportation purposes, which may include planning activities, capital projects and activities, and operating expenses. FHWA flexible funds that are transferred to FTA are administered and managed under applicable FTA program requirements, except for requirements related to the non-federal share of project costs, and must be obligated in a separate grant. However, to facilitate project delivery, flexible funds for eligible public transportation and public transportation-related projects do not need to be administered by FTA and may be retained by FHWA. When a project is eligible for flexible funding, the recipient should base its decision to have funds administered by FHWA or FTA on the nature of the project, the agencies involved in implementation, and the recipient's preference to follow either FHWA or FTA administrative procedures and requirements. Regardless of which agency administers the funding, all transit projects are subject to the transit employee protection requirements that include prevailing wage requirements and employee protective arrangements. 49 U.S.C. 5333.

Flex funds transferred for capital purposes to the State of Good Repair Grants Program that are lapsing or that have lapsed will be credited to the state governor's apportionment balance to benefit the entire state for later approved transit projects, and not necessarily for the sole use of the original recipient UZA. The governor will have the authority to decide transit projects for which the lapsed funds will be used. The FTA regional office will notify the appropriate state department of transportation by letter that lapsed funds have been credited. The governor or their designee must inform the regional office in writing of the governor's decision on the use of the funds. The governor may elect to direct that the funds be used for the original project or for another eligible project in the UZA for which they were originally transferred, or the governor may direct that the funds be made available for a different eligible project somewhere else in the state.

- d. Capital Projects. FHWA funds authorized for the following programs may be transferred to a recipient of State of Good Repair funds and used for eligible State of Good Repair capital or planning projects, if originally eligible for the purpose:
 - (1) Surface Transportation Program (STP), 23 U.S.C. 133;

- (2) National Highway Performance Program (NHPP), 23 U.S.C. 119;
 - (3) Congestion Mitigation and Air Quality Improvement Program (CMAQ), 23 U.S.C. 149; and
 - (4) Transportation Alternatives, 23 U.S.C. 213.
- e. Congestion Mitigation and Air Quality (CMAQ) Improvement Program, 23 U.S.C. 149. States can use CMAQ funds for public transportation or highway projects that are likely to result in emissions reductions.
- (1) Eligible Projects. Eligible CMAQ activities may include: public transportation vehicle acquisitions; construction of new facilities or improvements to facilities that increase transit capacity; and mobility improvements resulting from the provision of transit traveler information.
 - (2) Federal Share. The federal share for CMAQ funds is governed by 23 U.S.C. 120. It is generally 80 percent, subject to the upward sliding scale adjustment for states containing public lands. Certain safety projects that include an air quality or congestion relief component (e.g., carpool/vanpool projects) as provided in 23 U.S.C. 120(c) may have a federal share of 100 percent, but this provision is limited to 10 percent of the total funds apportioned to a state under 23 U.S.C. 104.
 - (3) Operating costs. CMAQ authorizes states to obligate Surface Transportation Program funds apportioned at 23 U.S.C. 104(b)(2) for operating costs. 23 U.S.C. 149(m). Operating assistance language is being reviewed and an interpretation will be issued by FTA in the future.

9. REQUIREMENTS RELATED TO VEHICLES AND EQUIPMENT.

- a. Useful Life of Project Property. FTA provides a useful life policy for rolling stock, trolleys, ferries, facilities, and some equipment. Where a useful life policy has not been predefined by FTA, the grantee, in consultation with the FTA regional or metropolitan office, must identify a useful life period for equipment, rolling stock, and facilities with an acquisition value greater than \$5,000 to be procured with federal funds. In the grant application, the grantee shall propose and identify a useful life for the capital asset to be purchased with federal funds. FTA approval of the grant represents FTA concurrence in the final determination of useful life for the purpose of project property acquisition. This in turn will determine the life of the federal interest in the acquired property, which is significant for the disposition of the project property in later years.
- (1) Determining Useful Life for Project Property. The grantee should identify the method used to determine the useful life. Acceptable methods to determine useful life include, but are not limited to:
 - (a) Generally accepted accounting principles;
 - (b) Independent evaluation;
 - (c) Manufacturer's estimated useful life;

- (d) Internal Revenue Service guidelines;
 - (e) Industry standards;
 - (f) Grantee experience;
 - (g) The grantee's independent auditor, who needs to concur that the useful life is reasonable for depreciation purposes; and
 - (h) Proven useful life developed at a federal test facility.
- (2) Bus, Van, Trolley, Rail Rolling Stock, and Ferry Useful Life Policy. Useful life of rolling stock begins on the date the vehicle is placed in revenue service and continues until it is removed from service. Minimum useful life for buses, vans, trolleys, and ferryboats is determined by years in service or accumulation of miles, whichever comes first, as follows:
- (a) Large, heavy-duty transit buses including over-the-road buses (approximately 35 to 40 feet, and articulated buses): at least twelve years of service or an accumulation of at least 500,000 miles.
 - (b) Small, heavy-duty transit buses (approximately 30 feet): at least ten years of service or an accumulation of at least 350,000 miles.
 - (c) Medium, medium-duty transit buses (approximately 25 to 35 feet): at least seven years of service or an accumulation of at least 200,000 miles.
 - (d) Medium, light-duty transit buses (approximately 25 to 35 feet): at least five years of service or an accumulation of at least 150,000 miles.
 - (e) Other light-duty vehicles used as equipment and in transport of passengers (revenue service) such as regular and specialized vans, sedans, demo models, light-duty buses, and all bus models exempt from testing under 49 CFR part 665: at least four years of service or an accumulation of at least 100,000 miles.
- (3) Trolleys. The term "trolley" is applied to a wide variety of vehicles. The useful life depends on the type of trolley. FTA classifies trolley suggested useful life as described below:
- (a) A fixed guideway steel-wheeled "trolley" (streetcar or other light rail vehicle): at least twenty-five years of service.
 - (b) A fixed guideway electric trolley-bus with rubber tires obtaining power from overhead catenary: at least fifteen years of service.
 - (c) Simulated trolleys, with rubber tires and internal combustion engines (often termed "trolley-replica buses"), should refer to the applicable bus useful life criteria above.

- (4) Rail Vehicles. At least twenty-five years. At time of grant application, the recipient may propose an alternative useful life to be reviewed by FTA. A recipient that regularly measures life span by hours of operations, or by any other measure, may develop an appropriate methodology for converting its system to years of service. The reasonableness of such methodologies will be subject to examination, particularly if the recipient proposes to retire a rail vehicle before it reaches the end of its useful life.
- (5) Ferries. The useful life of a ferry depends on several factors, including the type and use of the ferry. FTA offers the following suggested minimums of useful life:
- (a) Passenger ferries: twenty-five years of service.
 - (b) Other ferries (without refurbishment): thirty years of service.
 - (c) Other ferries (with refurbishment): sixty years of service.
- b. Early Disposition. FTA calculates the value of a vehicle before the end of its minimum useful life on using straight-line depreciation. Straight-line depreciation is a term most often used to indicate that personal property has declined in service potential. Removal of an FTA-funded vehicle from revenue service before the end of its minimum useful life, except for reasons of fire, collision, or natural disaster, leaves the recipient liable to FTA for the federal share of the vehicle's remaining value. In the case of project equipment or supplies lost or damaged by fire, casualty, or natural disaster, the fair market value must be calculated on the basis of the condition of the equipment or supplies immediately before the fire, casualty, or natural disaster, irrespective of the extent of insurance coverage. Consistent with this policy, the suggested vehicle useful life standards stated above in years refer to time in normal service, not time spent stockpiled or otherwise unavailable for regular transit duty.
- c. Rolling Stock Spare Ratio Policies. Spare ratio is defined as the number of spare vehicles divided by the vehicles required for annual maximum service. Spare ratio is usually expressed as a percentage (100 total vehicles required, including 20 spare vehicles results in a 20 percent spare ratio). Spare ratios will be taken into account during the review of grant applications proposing to replace, rebuild, or add vehicles to the applicant's fleet.
- (1) Bus Fleet. The basis for determining a reasonable spare ratio takes local circumstances into account, but generally, the number of spare vehicles in the active fleet for recipients operating fifty or more fixed-route revenue vehicles should not exceed 20 percent of the number of vehicles operated in peak service.

For purposes of the spare ratio calculation, "vehicles operated in maximum service" is defined as the total number of revenue vehicles operated to meet the annual maximum service requirement. This is the revenue vehicle count during the peak season of the year, and on the week and day that maximum service is provided. It excludes atypical days and one-time special events. Scheduled standby vehicles are permitted to be included as vehicles operated in maximum service.

Buses delivered for future expansion and buses that have been replaced but are in the

process of being disposed of should not be included in the calculation of spare ratio.

In each grant application to replace, rebuild, or add vehicles, the applicant must address the subjects of current spare ratio, the spare ratio anticipated at the time the new vehicles are introduced into service, disposition of vehicles to be replaced, and the recipient's conformance with FTA's spare ratio guidelines in the fleet status screen in the FTA electronic award management system. A recipient is required to notify FTA if the spare ratio computation on which the grant application is based is significantly altered before the grant award.

- (2) Rail Fleet. Because rail transit operations tend to be highly individualized, FTA has not established a specific number to serve as an acceptable spare ratio for rail transit operations. Nevertheless, rail operators should be aware that the recipient's rail vehicle spare ratio and the rationale underlying that spare ratio will be examined during the triennial review whenever FTA assistance is used to purchase or rebuild rail vehicles.

The following guidance should be used to support an operator's proposed rail vehicle spare ratio when the spare ratio is under review by FTA:

- (a) An operator of a rail system must have in its file available upon request by FTA a rail fleet management plan that addresses operating policies (level of service requirements, train failure definitions, and actions); peak vehicle requirements (service period and make-up; e.g., standby trains); maintenance and overhaul program (schedules, unscheduled, and overhaul) in coordination with the current TAM plan; system and service expansions; rail car procurements and related schedules; and spare ratio justification.
 - (b) Spare ratio justification should consider: average number of cars out of service for scheduled maintenance, unscheduled maintenance, and overhaul program; allowance for ridership variation (historical data); ridership changes that affect car needs caused by expansion of system or services; contingency for destroyed cars; and car procurements for replacements and system expansions.
 - (c) Cars delivered for future expansion and cars that have been replaced, but are in the process of being disposed of, should not be included in the calculation of spare ratio. Peak vehicle requirement includes "standby" trains that are scheduled, ready for service, and have a designated crew.
 - (d) Factors that may influence spare ratio are: equipment make-up (locomotive hauled trains; married pair units or single cars; equipment design, reliability and age); environmental conditions (weather, above ground or underground operation, loading and track layout); operational policies (standby trains, load factors, headways); maintenance policies (conditions for removing cars from service, maintenance during nights and weekends, and labor agreement conditions); and maintenance facilities and staff capabilities.
- (3) Contingency Fleet. Vehicles may be placed in an inactive contingency fleet, or "stored," in preparation for emergencies. No vehicle may be placed in this inactive

contingency fleet unless the vehicle has reached the end of its minimum useful life.

Vehicles held in a contingency fleet must be properly stored, maintained, and documented in a contingency plan, and updated as necessary, to support the continuation of a contingency fleet. A contingency plan is not an application requirement, although FTA does request information about the contingency fleet when reviewing grant applications. Contingency plans are also subject to review during FTA's oversight reviews, including the triennial reviews required for recipients of the Urbanized Area Formula Program, 49 U.S.C. 5307. Any rolling stock not supported by a contingency plan will be considered part of the active fleet. Since vehicles in the contingency fleet are not part of the active fleet, they do not count in the calculation of spare ratio.

d. Requirements Related to the Purchase of Vehicles. Recipients requesting funds for the purchase of vehicles must meet certain FTA requirements.

(1) Preaward and Post-Delivery Review of Buses. Procurements for revenue service vehicles to transport passengers, other than sedans or unmodified vans, must be reviewed 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.

(2) 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>.

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

(3) Buy America. With certain 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. 49 U.S.C. 5323(j). FTA's Buy America requirements, implemented at 49 CFR part 661, differ from the federal Buy American regulations at 48 CFR part 25. The former apply to third-party contracts funded by FTA, while the latter apply to direct federal procurements. FTA strongly advises recipients to review 49 CFR part 661 as well as FTA Circular 4220.1, "Third Party Contracting Guidance," before undertaking any procurement. 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>.

(4) 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 DOT requirements for participation by disadvantaged business enterprises (DBE). 49 CFR part 26. The recipient is obligated to determine, by checking the TVM listing on FTA's website or by checking with FTA's Office of Civil Rights at the time of bid opening, that the manufacturer likely to receive the contract is in compliance with DBE requirements. TVMs must establish and submit to the FTA Office of Civil Rights for approval an annual overall percentage goal for DBE participation in federally assisted contracts. TVMs that are certified to bid on federally funded transit agency contracts are listed on FTA's website. For further guidance, contact the FTA Office of Civil Rights.

- (5) Americans with Disabilities Act (ADA). Recipients must ensure that each transit vehicle meets the accessibility requirements and standards for the vehicle type specified. 49 CFR parts 37 and 38. Where a vehicle or component departs from the particular technical and scoping requirements, the recipient must obtain a determination of equivalent facilitation from the FTA administrator. 49 CFR 37.7, 38.2. Where a specific vehicle type is not addressed by part 38, accessibility requirements must be determined by DOT in consultation with the U.S. Architectural and Transportation Barriers Compliance Board (Access Board). 49 CFR 38.171(c).
- e. Replacing FTA-Funded Vehicles. FTA has established several policies to ensure that vehicles acquired with federal funds are maintained and remain in transit use for a minimum useful life.
 - (1) Replacement at End of Minimum Useful Life. A vehicle proposed to be replaced must have achieved at least the minimum useful life. For purposes of bus replacement grant applications, the age of the bus to be replaced is determined by the number of years of service or mileage at the time the proposed replacement bus will be introduced into service, or when the bus was taken out of service.
 - (2) Replacement before the End of Minimum Useful Life. Replacement of a vehicle prior to the end of its minimum useful life requires FTA approval. If a vehicle is replaced before it has achieved its minimum useful life, the recipient has the option of returning to FTA an amount equal to the remaining federal interest in the vehicle or applying the "Like-kind Exchange" policy found in FTA Circular 5010.1D that allows the recipient to place an amount equal to the remaining federal interest in the vehicle into a newly purchased vehicle.

To determine the federal interest in a federally funded vehicle during its minimum useful life, a straight-line depreciation formula is used. For further information and examples, see FTA Circular 5010.1D.
 - f. Rebuilding Policies. A recipient may choose to rebuild a vehicle rather than dispose of it. Please see FTA's "Grant Management Requirements," Circular 5010.1D, for additional information on rebuilding and overhaul policies.
 - g. Rolling Stock Overhauls. An overhaul is an eligible capital expense as preventive

maintenance. Overhauls are usually done to enable rolling stock to reach its originally anticipated useful life. In contrast to a rebuild, an overhaul does not extend the useful life of rolling stock. For rolling stock to be overhauled, it must have served at least 40 percent of its useful life.

- h. Requirements Related to Accessories and Miscellaneous Equipment. A grant application may include certain miscellaneous items separate from the costs of a bus procurement or facilities project. For example, a recipient may apply for mobile radios, bus stop signs or shelters, supervisory vehicles, fareboxes, computers, and shop and garage equipment. The application must explain the rationale or need for each request. FTA does not require a separate justification if, for example, a farebox or radio is included in the cost of a new bus, or shop equipment is included in the cost of a new maintenance facility.

10. REQUIREMENTS RELATED TO FACILITIES. This section contains information concerning program requirements specific to the construction or acquisition of facilities funded by the State of Good Repair Grants Program.

- a. General Philosophy. FTA generally assists in the construction and maintenance of two kinds of facilities:
 - (1) Facilities that support transit operations, such as maintenance garages and administrative buildings; and
 - (2) Facilities that provide passenger amenities and extend into the built environment, such as bus or rail terminals, stations, shelters, and park-and-ride lots as well as intermodal facilities that include both transit and intercity bus or rail services.
- b. Useful Life of Facilities. Determining the useful life of a facility must take into consideration such factors as the type of construction, the nature of the equipment used, historical usage patterns, and technological developments. As such, FTA establishes a range of forty to fifty years for the minimum useful life of a facility. A railroad or highway structure has a minimum useful life of fifty years, and most other buildings and facilities (concrete, steel, and frame construction), forty years. For further information, see FTA Circular 5010.1D.
- c. Americans with Disabilities Act (ADA). Recipients must ensure that new construction or alteration of transit facilities meet the accessibility standards and requirements specified in 49 CFR parts 37, 38, and 39, as applicable. Where any departure from the specific requirements is contemplated, the recipient must obtain a determination of equivalent facilitation from the FTA administrator. 36 CFR part 1191, 49 CFR 37.9(d).
- d. Shared Use. Shared use of project property requires prior written FTA approval except when it involves coordinated public transit human services transportation. Shared use projects should be clearly identified and sufficient detail provided to FTA at the time of grant review to determine allocable costs related to nontransit use for construction, maintenance, and operation costs.
- e. Facility Size. FTA's general policy is to provide assistance for facilities that are adequate

for the recipient's present needs and that will meet, in a realistic way, its needs of the future. Thus, for a recipient currently operating twenty vehicles, a request for a bus maintenance garage that will accommodate twenty vehicles and have space for a 10 to 25 percent vehicle increase would be considered an acceptable grant request. For the same transit agency, a grant request for a garage accommodating forty vehicles would not be acceptable, unless the recipient could demonstrate its need, willingness, and ability to expand its fleet to forty vehicles in a relatively short time. In either case, however, the purchase of enough land for the future expansion of the fleet and supporting facilities may be justifiable.

11. ENVIRONMENTAL CONSIDERATIONS. Prior to projects receiving FTA funding, FTA is required to consider every project's potential impacts on the environment. These environmental reviews are conducted under the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and related federal environmental laws, such as National Historic Preservation Act, 16 U.S.C. 470 *et seq.*, the Efficient Environmental Reviews for Project Decision Making, 23 U.S.C. 139, regulations, and executive orders. The amount of resources required to complete this process (time, documentation, consultant services, etc.) will vary depending on the type of project and its potential to impact the human and natural environment. The following list identifies and briefly describes each level of environmental review that may apply to a project:
 - a. Categorical Exclusion (CE). Projects that historically do not result in significant environmental impacts may qualify as a CE and will require little to no documentation. Examples of this type of project are buying a bus and construction of transit facilities primarily within the transportation right-of-way.
 - b. Documented Categorical Exclusion (DCE). Projects that historically do not result in significant environmental impacts but are slightly greater in scope than those qualifying as a CE may qualify as a DCE. Examples of this type of project may include real property acquisition and construction of transit facilities with features located outside of the transportation right-of-way.
 - c. Environmental Assessment (EA) & Environmental Impact Statement (EIS). Projects that are even more complex in scope or are viewed as controversial by the public may require the preparation of an EA. This level of environmental review provides the public an opportunity to comment and will document whether or not the project will result in any significant impacts. If the analysis in an EA concludes that the project will result in significant impacts, or if from the early planning stages it is determined that the size and scope of the project will result in significant impacts, an EIS will be required. Most recipients typically need to enlist consultant services when preparing an EA or EIS.

Recipients should consult with FTA early in the grant application process to confirm the appropriate level of environmental review. Project sponsors should not move forward with any steps to develop the project that would preclude the fair consideration of alternatives (e.g., final design and construction, property) until FTA concludes the NEPA process by issuing a record of decision (ROD), a finding of no significant impact (FONSI), or determines that a CE applies.

Further detail and explanation on the different levels of environmental review can be found in FTA and FHWA's joint regulations concerning environmental impact and related procedures. 23 CFR part 771. Recipients must receive confirmation that their proposed FTA-funded project has complied with environmental impact policies and procedures before the grant application can be approved by FTA and funds can be obligated.

12. MAJOR CAPITAL PROJECTS. On occasion, a State of Good Repair Grants project will be identified as a major capital project, and thus subject to rules for project management oversight. 49 CFR part 633. FTA's definition of a major capital project is set by regulation and is discussed in Chapter II of this circular. 49 CFR 633.5.

If a State of Good Repair project is identified as a major capital project, an applicant must carry out a project management plan (PMP) and must apply value engineering techniques to the project. The elements of a PMP appear in 49 U.S.C. 5327(a). FTA's related regulations, including the requirements of a PMP, are set forth at 49 CFR part 633. The applicant must submit the PMP in time for FTA to review the applicant's plan in conjunction with its State of Good Repair Grants application. Within sixty days of receiving the PMP, FTA will make a determination either to approve or disapprove the plan, or FTA will notify the grant applicant that it was unable to complete the review. If FTA disapproves a PMP, FTA will provide its reasons for disapproval to the applicant.

13. AUTHORITY TO UNDERTAKE PROJECTS IN ADVANCE. There are three different authorities by which a recipient may incur costs on a project before grant approval and retain eligibility for reimbursement after grant approval. The first is automatic preaward authority. The second is a letter of no prejudice (LONP). The third is advance construction authority (ACA). When utilizing automatic preaward authority, a recipient must comply with all FTA and federal requirements per the terms of FTA's annual Apportionments, Allocations and Program Information notice prior to undertaking the project, including federal planning requirements, in order to retain eligibility for reimbursement after grant approval.

- a. Automatic Pre-Award Authority. The authorization of the State of Good Repair Grants Program funds triggers automatic preaward authority for design and environmental review on the project; these costs may be incurred as of the date of the authorization and within the total amount authorized for the authorization period. To use automatic preaward authority to apply to property acquisition, demolition, construction, and acquisition of vehicles, equipment, or construction materials for projects, see FTA's annual Apportionments, Allocations, and Program Information notice.

The recipient assumes all risk and is responsible for ensuring that all applicable federal program and grant requirements are met to retain eligibility. FTA strongly encourages all recipients to consult with the appropriate FTA regional office regarding the project's eligibility for future FTA funds and the applicability of automatic preaward authority.

- b. Letter of No Prejudice. For a project not covered by the automatic pre-award authority, including projects that will require State of Good Repair formula funds not yet authorized and for which FTA has not extended pre-award authority, a grant applicant that seeks to proceed with a transit project may request that FTA issue a Letter of No Prejudice (LONP)

for that project. An LONP allows a recipient to incur costs on a project using non-federal resources with the understanding that the costs incurred after the LONP is issued may be reimbursable as eligible expenses or eligible for credit toward the local match should FTA approve the project for a grant at a later date.

The recipient assumes all risk and is responsible for ensuring that all applicable federal program and grant requirements are met to retain eligibility. Because project implementation activities may not be initiated prior to completion of the NEPA process, FTA will not issue an LONP for such activities until the NEPA process has been completed and FTA has issued a ROD, FONSI, or CE determination.

Although FTA typically grants automatic preaward authority as discussed in subsection *a.* above, an LONP is required if a recipient wishes to continue to incur costs after the life of the program's authorization. Each LONP has an expiration date, which is the date beyond which funding cannot be requested retroactively for the project. The standard expiration date of an LONP is five years, after which time the recipient may request a new LONP. In situations involving, for example, long-term leases or long-term financing, the LONP may be for an appropriately longer time period.

To obtain an LONP, a recipient must submit a written request accompanied by adequate information and justification to the appropriate FTA regional office. FTA approval of an LONP is made in writing and determined on a case-by-case basis.

- c. Advance Construction Authority. The statutory authority to undertake projects in advance, also referred to as Advance Construction Authority (ACA), allows recipients to incur certain project costs, including financing costs, before grant approval and retain their eligibility for subsequent reimbursement, including financing costs incurred by the recipient, after grant approval.³ ACA is slightly different from the policy-driven automatic preaward authority and LONP, which are discussed in subsections *b.* and *c.* above. In granting ACA, FTA approves a project for funding in the event funding becomes available. Under automatic preaward authority or an LONP, FTA does not actually approve a project for funding.

ACA permits a grant applicant to incur project and financing costs such as bond interest before FTA awards a grant for the project. FTA may issue ACA provided—

- (1) The recipient has completed a grant application and it is on file with FTA.
- (2) The project has met all federal requirements, including the DOL certification under 49 U.S.C. 5333(b).
- (3) FTA has approved the project as eligible for the State of Good Repair Grants Program, although funding is not available.

³ As a successor program to the former Fixed Guideway Modernization Program, FTA has made the administrative decision that the State of Good Repair Grants program also succeeds to the Fixed Guideway Modernization Program's advance construction authority. *See* 49 U.S.C. 5309(m).

While an ACA establishes a recipient's right to be reimbursed after FTA has approved the project, ACA does not constitute a commitment of federal funds until the project is converted to a regularly financed project. ACA expires on or before the expiration of the current authorization.

- d. Terms and Conditions Applicable to Automatic Preaward Authority, LONP, and ACA. In general, the terms, conditions, and procedures applicable to recipients having automatic preaward authority or an LONP are as follows:
- (1) All federal grant requirements must be met at the appropriate time for a project having automatic preaward authority or an LONP to remain eligible for federal funding.
 - (2) These authorities are not a legal or implied commitment that the project will be approved for FTA assistance or that FTA will obligate federal funds.
 - (3) These authorities are not a legal or an implied commitment that all items undertaken by the applicant will be eligible for inclusion in the project.
 - (4) The recipient assumes all risk.
 - (5) All FTA statutory, procedural, and contractual requirements must be met.
 - (6) All applicable DOT statutory and regulatory requirements must be met.
 - (7) The recipient must not take any action that prejudices the legal and administrative findings that the FTA administrator must make in order to approve a project.
 - (8) Local funds expended by the recipient after the date of the automatic preaward authority, an LONP, or ACA will be eligible for credit toward local match or reimbursement if FTA later makes a grant for the project or project amendment.
 - (9) Local funds expended by the recipient before the date of the authority will not be eligible for credit toward local match or reimbursement.
 - (10) The expenditure of local funds on activities such as land acquisition, demolition, or construction before the date of preaward authority for those activities (i.e., the completion of the NEPA process) would compromise FTA's ability to comply with federal environmental laws and may render the project ineligible for FTA funding.
 - (11) The federal amount of any future FTA assistance awarded to the recipient for the project will be determined on the basis of the overall cost scope of activities and the prevailing statutory provisions and congressional direction with respect to the federal/local match ratio at the time the funds are obligated.
 - (12) When a grant for the project is subsequently awarded, the Federal Financial Report must indicate the use of the automatic preaward authority, an LONP, or ACA. Generally, the authority expires when the State of Good Repair Grants formula funds lapse. More information and updates regarding automatic preaward authority and

LONPs can be found in FTA's fiscal year apportionment notices published in the *Federal Register*.

14. PUBLIC TRANSPORTATION SAFETY REQUIREMENTS. Statutory changes by MAP-21 require FTA to establish regulations for public transportation operators regarding transit agency safety plans. 49 U.S.C. 5329. The intent of these requirements is to increase the safety of public transportation systems for employees, customers, and the general public. FTA will issue rules in the future for a national public transportation safety program, training certification for safety employees, public transportation agency safety plans, and state safety oversight for rail transit systems.

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CHAPTER V

PROGRAM MANAGEMENT AND ADMINISTRATIVE REQUIREMENTS

1. **FTA ELECTRONIC AWARD 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 financial status and milestone progress reports, and submit annual Certifications and Assurances in this system. A User Guide can be found at FTA's website in the "Grants and Financing" section under "Apply for and Manage Grants."

The U.S. Department of Labor (DOL) receives requests electronically for Transit Employee Protective Certification for projects. DOL will electronically issue the Public Transportation Employee Protective Certifications, entering the certification date and attaching the certification letter into the electronic award management system.

This system interfaces directly with other systems such as Grants.gov and the Electronic Clearinghouse Operations (ECHO) system. ECHO is an FTA Web-based application that processes FTA recipients' requests for payment. To access the electronic award management system, a new applicant must complete the Grantee/Recipient User Access Request form for each user and submit that form to the appropriate FTA regional office. The website containing information about how to apply for a grant is:

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

2. **SYSTEM FOR AWARD MANAGEMENT REQUIREMENTS.** The System for Award Management (SAM), <http://www.sam.gov>, is a free website that consolidates federal procurement systems and the Catalog of Federal Domestic Assistance. On July 30, 2012, the Central Contractor Registration (CCR), FedReg, and the Excluded Parties List System (EPLS) were migrated into SAM.

Any organization applying for financial assistance from the federal government must register in SAM and keep its registration current until it submits its final financial report pursuant to the award agreement from FTA 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.

3. **DATA UNIVERSAL NUMBERING SYSTEM (DUNS) REGISTRATION REQUIREMENTS.** 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 (<http://www.dnb.com>). It can take about five weeks to receive a DUNS number after applying for one. As soon as the DUNS number is received, the applicant must inform an FTA regional office and update the recipient's profile to include the number.

4. DUNS REQUIREMENT FOR SUBRECIPIENTS. 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.
5. ELECTRONIC CLEARINGHOUSE OPERATION (ECHO) REQUIREMENTS. Recipients are required to establish an ECHO control number (ECN) before FTA is able to disburse funds to the recipient. U.S. Department of the Treasury regulations, 31 CFR part 205, govern payment to recipients for financing operations under federal assistance and other programs. These regulations require that payment to a recipient be limited to the minimum amounts needed and timed so as to be in accord only with the actual, immediate cash requirements of the recipient in carrying out the approved project. For further information regarding cash management procedures, refer to the FTA “ECHO-Web System User Manual for Recipients” at: <http://www.fta.dot.gov/documents/ECHOWebGranteeUserManual.pdf>.
6. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REQUIREMENTS. FTA’s recipients must report 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 direct recipient makes any subaward or obligation (not the month after FTA awarded the direct grant). Subaward information is reported to the FFATA Subaward Reporting System (FSRS), <https://fsrs.gov/>. Once the recipient submits an initial report, the recipient can revise it later to add additional subawards as they are made, or to change data previously submitted to reflect adjustments in subawards.
 - a. No report is required until the month after the recipient makes a subaward. For example, if FTA awards a grant in November, and the prime recipient does not sign subrecipient agreements until February, the FTA recipient would have until March 31 to report the subaward in FSRS. However, 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 recipient allows subrecipients to use preaward authority, the deadline would still 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 are:
 - (1) Name of entity receiving subaward
 - (2) DBA Name
 - (3) DUNS of the entity and its parent and DUNS+4
 - (4) Amount of subaward
 - (5) Subaward number (assigned by recipient).
 - (6) CFDA number (the same CFDA associated with the FTA award).
 - (7) Place of performance (including congressional district).
 - (8) Total compensation and names of top five executives, if required (this is not typically required, with reporting thresholds of \$25,000,000 and 80 percent of total revenue coming from federal funds).

- (9) Award title descriptive of the purpose of the funding action.
 - (10) 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 sub-award data in FSRS, the information will be published with the original direct award information on USASpending.gov, <http://www.usaspending.gov>.
 - e. Information and training materials about FFATA subaward reporting and FSRS are posted on <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.fsr.gov>. Recipients should direct technical questions about the reporting website to the FSRS help desk. FTA regional staffs are available to help with FTA grant award information and requirements.
7. NATIONAL TRANSIT DATABASE (NTD) REPORTING. The NTD was established by Congress to be the nation’s primary source for information and statistics on the transit systems of the United States. NTD data are used to support numerous DOT programs and to “help meet the needs of individual public transportation systems, the United States Government, State and local governments, and the public for information on which to base public transportation service planning.” 49 U.S.C. 5335(a).

FTA’s implementing regulation can be found at 49 CFR part 630. A recipient of an FTA grant that is required to report to NTD must provide a complete report to NTD of all transit operations, regardless of whether those operations are funded in whole or part by FTA. In addition, MAP-21 newly requires each recipient of FTA funding to report to the NTD data on asset inventories and conditions. 49 U.S.C. 5326(b)(3) and 5335(c). Financial information reported to NTD must be reported in accordance with the Uniform System of Accounts (USOA). The complete reporting requirements for NTD, along with information on due dates, extensions, and waivers, can be found in the current versions of the NTD Reporting Manuals. The NTD regulation, the USOA, and the most recent versions of the NTD Reporting Manuals can be found on the NTD website at <http://www.ntdprogram.gov>.

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CHAPTER VI

OTHER PROVISIONS

1. INTRODUCTION. In addition to the program-specific requirements of the State of Good Repair Grants Program, FTA recipients are held to a number of FTA-specific and other federal requirements. This chapter provides a summarized, alphabetical listing of those requirements and provides citations to the actual statutory or regulatory text. If there is a conflict between the summary information provided in this chapter and the statute or regulation, the language of the statute or regulation controls. This circular should be used in conjunction with FTA's "Master Agreement" and the current fiscal year "Certifications and Assurances" that recipients must sign annually (by using the electronic award management system) to establish or renew their funding relationship with FTA.

The Master Agreement and the Certifications and Assurances represent a recipient's legal affirmation to abide by FTA and other federal requirements that are applicable to FTA grant programs.

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, <http://www.fta.dot.gov>, and in the references provided throughout this chapter.

Recipients are encouraged to contact the appropriate FTA regional office for more details about these requirements.

2. CHARTER BUS SERVICES. Title 49 U.S.C. 5323(d) limits charter service provided by federally assisted public transportation operators. FTA regulations specify these limitations in 49 CFR part 604, Charter Service, amended effective April 30, 2008 (73 FR 2326, January 14, 2008). Each recipient must enter into an agreement with FTA stating 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/legislation_law/12922.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 exceptions outlined in the rule, and it is interested in performing the service, it must send notice to all private operators registered in the recipient's geographic service area. The

notice sent by the transit agency must conform strictly to the requirements of the rule, as additional information may void the notice and may subject the transit agency to a complaint from registered charter providers. The rule also provides for a detailed complaint process for addressing potentially frivolous complaint filings, in addition to complaints against transit agencies that violate the regulation, and a complaint process for removing private registered providers if they are abusing the process. The rule contains hearing procedures, appeal procedures, and several appendices to assist transit agencies with compliance, including a penalty matrix and a series of frequently asked questions and answers.

3. CIVIL RIGHTS. The recipient agrees to comply with all applicable civil rights statutes and implementing regulations including, but not limited to, the following:
 - a. Nondiscrimination in Federal Public Transportation Programs. The recipient agrees to comply, and assures the compliance of each third party contractor at any tier and each subrecipient at any tier under the project, with the provisions of 49 U.S.C. 5332. These provisions prohibit discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibit discrimination in employment or business opportunity.
 - b. Nondiscrimination on the Basis of Disability. The recipient agrees to comply, and assures the compliance of each third party contractor and each subrecipient at any tier of the project, with the applicable laws and regulations, discussed below, for nondiscrimination on the basis of disability.
 - (1) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), prohibits discrimination on the basis of disability by recipients of federal financial assistance.
 - (2) The 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 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.

- (5) 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 regards 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.
 - (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 at any tier 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 grounds 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. Department of Transportation (DOT) regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964,” 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), DOT’s Order 5610.2 on Environmental Justice (62 FR 18377, April 15, 1997), and DOT Policy Guidance Concerning Recipient’s Responsibilities to Limited English Proficient (LEP) Persons (70 FR 74087, December 14, 2005).
 - (4) U.S. DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons (December 14, 2005). This Executive Order 13166 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 DOT Order 5610.2, Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, and Executive Order 12898 on Environmental Justice. The DOT order 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 comply, and assures the compliance of each third party contractor and each subrecipient at any tier of the project, with all equal employment opportunity (EEO) requirements of Title VII of the Civil Rights Act of 1964, as amended, (42 U.S.C. 2000e *et seq.*), and with 49 U.S.C. 5332 and any implementing regulations DOT may issue.
- e. Nondiscrimination on the Basis of Sex. The recipient agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681 *et seq.*), with DOT implementing regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance” (49 CFR part 25).
- f. Nondiscrimination on the Basis of Age. The recipient agrees to comply with all applicable requirements of the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 *et seq.*), and Department of Health and Human Services’ (DHHS) 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) Program. To the extent required by federal law, regulation, or directive, the recipient agrees to take the following measures to facilitate participation by DBEs:
- (1) The recipient agrees and assures that it will comply with MAP-21 Section 1101(b), 23 U.S.C. 101, which directs the secretary of Transportation to expend not less than 10 percent of authorized federal funds with DBEs. This 10 percent national goal is aspirational and is used by the U.S. Department of Transportation to help monitor and evaluate DBE participation in DOT-assisted contracting opportunities.
 - (2) The recipient agrees and assures that it will comply with DOT regulation, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,” 49 CFR part 26. Among other provisions, this regulation requires certain recipients of DOT federal financial assistance, namely state and local transportation agencies, to establish goals for the participation of disadvantaged entrepreneurs and certify the eligibility of DBE firms to participate in their DOT-assisted contracts.

- (3) The recipient agrees and assures that it shall not discriminate on the basis of race, color, sex, or national origin, in the award and performance of any third-party contract, or subagreement supported with federal assistance derived from DOT, or in the administration of its DBE Program, and will comply with the requirements of 49 CFR part 26. The recipient agrees to take all necessary and reasonable steps set forth in 49 CFR part 26 to ensure nondiscrimination in the award and administration of all third-party contracts and subagreements supported with federal assistance derived from DOT. As required by 49 CFR part 26 and approved by DOT, the recipient's DBE Program is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement. The recipient agrees that implementation of this DBE Program is a legal obligation, and that failure to carry out its terms shall be treated as a violation of the Grant Agreement or Cooperative Agreement. Upon notification by DOT to the recipient of a failure to implement its approved DBE Program, DOT may impose sanctions as provided for under 49 CFR part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001, and/or the Program Fraud Civil Remedies Act, 31 U.S.C. 3801 *et seq.*

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

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

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

5. COMMERCIAL DRIVER'S LICENSE (CDL). All drivers of motor vehicles designed or used to transport more than fifteen passengers (including the driver) or of vehicles which have a gross combination weight rating of 26,001 pounds or more must have a CDL. Mechanics that drive the vehicles must also have a CDL.
6. DEBARMENT AND SUSPENSION. The purpose of the DOT Governmentwide Debarment and Suspension (Nonprocurement) regulations (2 CFR part 1200) is to ensure that federal assistance funds are not provided to anyone who has been debarred, suspended, determined ineligible, or voluntarily excluded from participation in federally assisted transactions. The U.S. General Services Administration's (GSA) System for Award Management (SAM) provides a single comprehensive list of individuals and firms excluded by federal government agencies from receiving federal contracts or federally approved subcontracts and from certain types of federal financial and nonfinancial assistance and benefits. GSA maintains a website, at <https://www.sam.gov>, which is updated in real time as changes to the data occur.
 - a. DOT regulations, "Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR part 1200, incorporating OMB's debarment and suspension guidelines, 2 CFR part 180, requires disclosure of the status of persons and entities participating in:
 - (1) Third-party contracts or subagreements of \$25,000 or more at any tier;
 - (2) Third-party contracts of any amount for federally required audit services (such as those required under the Single Audit Act Amendments); and
 - (3) Third-party contracts or subagreements requiring official DOT approval.
 - b. Both participants in third-party contracts of any tier and subagreements of any tier are expected to assure the status of persons participating therein.
 - 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.

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.

7. DRUG AND ALCOHOL TESTING. In the interest of safety in transit operations, recipients of funding from the Urbanized Area Formula Grants Program, the Fixed Guideway Capital Investment Grants Program, the Rural Area Formula Grants Program, and other programs as

determined by the secretary are required by 49 U.S.C. 5331 to establish drug and alcohol testing programs.⁴ FTA's implementing regulation is set forth at 49 CFR part 655.

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

FTA's regulation (49 CFR part 655) applies to "employers," and the term employer is defined as "a recipient [of FTA funding] or other entity that provides [public] transportation service or which performs a safety-sensitive function for such recipient or other entity." The term includes subrecipients, operators, and contractors. The direct recipient of FTA funding, however, remains responsible to FTA both for carrying out the regulations and for ensuring that any person or organization performing a safety-sensitive function on its behalf is in compliance with FTA regulations with effective ongoing oversight. FTA's regulation does not apply to construction phases of funded projects. Contractors that supply newly manufactured equipment are excluded, as are facility construction workers. The regulation applies to the testing, start-up, and actual revenue operations of FTA-funded transit systems. Van pool drivers, as volunteers and not employees of a transit system that do not receive remuneration over their actual expenses, are exempt from testing. Also exempt are taxi operations for paratransit transportation where the patron chooses the service through a user subsidy or voucher and the service is not dispatched through the FTA recipient or subrecipient. In addition, maintenance contractors for rural 5311 providers and providers in urbanized areas with populations of less than 200,000 are exempt as well.

FTA's regulation requires testing of employees who perform one or more of five transit safety-sensitive functions, which are defined at 49 CFR 655.4. The regulation requires the following six types of testing for illegal drug use and alcohol misuse: pre-employment (including transfer from a non-safety-sensitive position to a safety-sensitive position, and removal from the random pool for ninety days or more); reasonable suspicion; random; post-accident; return-to-duty (after a violation); and follow-up (a minimum of six tests in twelve months after returning to duty). Since an October 2010 amendment to 49 CFR part 40, return-to-duty and follow-up tests are required to be directly observed.

⁴ Under MAP-21, the former Job Access and Reverse Commute (JARC) and former New Freedom (NF) programs, formerly codified at 49 U.S.C. 5316 and 5317, respectively, were consolidated into the Rural and Urbanized Formula Grants programs. FTA intends for JARC and NF to continue to be exempt from drug and alcohol testing applicability if the recipients receive JARC and NF only.

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

Technical assistance materials and training information to help recipients implement the rules are available at FTA's website, <http://www.fta.dot.gov/safetysecurity/12533.html>, or through contacting the FTA Office of Transit Safety and Oversight, FTA headquarters.

8. **DRUG-FREE WORKPLACE.** In accordance with the Drug-Free Workplace Act of 1988 (codified as amended at 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.gov/elaws/asp/drugfree/menu.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.

9. **EMPLOYEE POLITICAL ACTIVITY.** To the extent applicable, the recipient agrees to comply with the provisions of the Hatch Act, 5 U.S.C. Sections 1501–1508, and Sections 7324–7326, and U.S. Office of Personnel Management regulations, "Political Activity of State or Local Officers or Employees," 5 CFR part 151. The Hatch Act limits the political activities of state and local agencies and their officers and employees, whose principal employment activities are financed in whole or part with federal funds including a federal grant, cooperative

agreement, or loan. Nevertheless, in accordance with 49 U.S.C. 5323(l)(2) and 23 U.S.C. 142(g), the Hatch Act does not apply to a nonsupervisory employee of a public transportation system (or of other agencies or entities performing related functions) receiving FTA assistance to whom the Hatch Act would otherwise apply.

10. ENERGY CONSERVATION. The recipient agrees to comply with applicable mandatory energy efficiency standards and policies of applicable state energy conservation plans issued in accordance with the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6321 *et seq.* The recipient, to the extent applicable, agrees to perform an energy assessment for any building constructed, reconstructed, or modified with FTA assistance, as provided in FTA regulations, “Requirements for Energy Assessments,” 49 CFR part 622, subpart C. Only after the completion of an energy assessment will FTA approve assistance for the construction, reconstruction, or modification of buildings for which the recipient submits an application. An energy assessment consists of an analysis of the total energy requirements of a building, within the scope of the proposed construction activity and at a level commensurate with the project size and scope. The energy assessment should consider: overall design of the facility or modification; materials and techniques used in construction or rehabilitation; special or innovative conservation features that may be used; fuel requirements for heating, cooling, and operations essential to the function of the structure projected over the life of the facility and including projected costs of this fuel; and the kind of energy the recipient will use.
11. ENVIRONMENTAL REVIEWS. All projects seeking FTA financial assistance require compliance with the National Environmental Policy Act (NEPA) implementing regulations (40 CFR 1500-1508), FHWA and FTA’s Environmental Impact and Related Procedures (23 CFR part 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., final design and construction) until FTA concludes the NEPA process by issuing a record of decision (ROD), finding of no significant impact (FONSI) or a 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, FOSNI, or CE is issued.
12. INTERGOVERNMENTAL REVIEW. Executive Order 12372 and DOT regulations, “Intergovernmental Review of Department of Transportation Programs and Activities” (49 CFR part 17), require that a grant applicant applying for FTA funds comply with a state’s intergovernmental review process. The requirement is to ensure that the appropriate state authorities are informed about and provided an opportunity to comment on projects for which federal assistance is being provided within the state. Many states have their own review procedures, which describe the federal programs and activities that had been selected for intergovernmental review and how applicants satisfy the states’ intergovernmental review requirements.

If there is no intergovernmental review process in the grant applicant's state, then programming of a project in the TIP and Statewide Transportation Improvement Program (STIP), or Unified Planning Work Program (UPWP), as appropriate, will be considered by FTA as meeting the need for intergovernmental review.

If there is an adopted state process of intergovernmental review for an FTA program or activity, FTA requires that the applicant, upon the MPO's approval of the TIP, notify the single point of contact for the state's intergovernmental review process that the MPO has approved the TIP and that the applicant has submitted the TIP to the governor for approval and subsequent inclusion in the STIP. The applicant must provide the single point of contact with the name and mailing address of the office to which it is submitting the TIP.

The applicant may wish to transmit to the single point of contact, or request the MPO to transmit, pertinent documents on public transportation projects from the approved TIP. Timely alerting of the single point of contact will allow that entity to review and comment on the projects in the TIP during the STIP development process, if the entity so chooses. In the appropriate places in the FTA electronic award management system, an applicant should indicate whether Executive Order 12372 applies, and the date the state reviewed the application, if applicable.

13. LABOR PROTECTIONS.

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

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

14. PRESIDENTIAL COIN ACT. In accordance with the Presidential \$1 Coin Act of 2005, Pub. L. 109-145, beginning January 1, 2008, all transit systems that receive operational subsidies or

any disbursement of funds from the federal government shall be fully capable of accepting and dispensing \$1 coins and must display signs and notices denoting such capability on the premises where coins or currency are accepted or dispensed, including on each vending machine.

15. PRIVATE SECTOR PARTICIPATION. Under 49 U.S.C. 5303(i)(6), 5304(f)(3), and 5307 (b), Federal law requires that Chapter 53 recipients engage interested parties, including private providers of transportation, in the transportation planning process and transportation improvement programs. 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 transportation improvement programs.
16. USE OF COMPETITIVE PROCUREMENTS. An applicant seeking federal assistance must follow procurement requirements specified under 49 U.S.C. 5323 and 49 U.S.C. 5325. This includes the requirements that a recipient utilize a competitive procurement process, comply with applicable Buy America laws, and not use a procurement that uses exclusionary or discriminatory specifications.

Recipients must use competitive procurement procedures as determined by FTA and will not use procurements employing exclusionary or discriminatory specifications. 49 U.S.C. 5323(h)(2). Any recipient failing to provide this certification, or that is found by FTA to have procurement practices and procurement systems that do not comply with federal laws, regulations, and directives governing federally financed procurements, may be determined ineligible for award of federal assistance.

There is a link between a recipient's certification that its procurement procedures follow federal requirements and a positive finding by FTA concerning the applicant or recipient's technical capacity to administer and manage a grant properly. FTA Circular 4220.1, "Third Party Contracting Guidance," sets forth the requirements and procedures applicable to third-party contracts. A third-party contract refers to any purchase order or contract awarded by a recipient to a vendor or contractor using federal financial assistance awarded by FTA. FTA Circular 4220.1 contains guidelines for the general procurement requirements of the DOT Common Grant Rule, 49 CFR parts 18 and 19, and also includes specific statutory procurement provisions required by FTA's enabling legislation and other special concerns to FTA. Note that both the Common Grant Rule prohibits state or local preference provisions in procurements, except in certain restricted circumstances.

Section 5323(h)(2) prohibits the use of FTA grant funds to support exclusionary or discriminatory specifications, and Section 5323(m) provides specific preaward and post-delivery provisions for procuring rolling stock.

In addition to procurement and audit provisions that apply to architectural, engineering, and related services, 49 U.S.C. 5325 includes provisions affecting third-party procurements, including the general requirements for competition and prohibitions on the use of exclusionary or discriminatory specifications, requirements for award to other than low bidders, requirements for awards to responsible contractors, special rolling stock limitations, contract

terms limited to five years, access of federal officials and the comptroller general to project records, authority for design-build projects, and an express federal preemption of any state law requiring bus purchases from in-state dealers.

FTA's Best Practices Procurement Manual, at http://www.fta.dot.gov/grants/13054_6037.html, provides another useful source of procurement information.

17. **REAL PROPERTY ACQUISITION AND RELOCATION ASSISTANCE.** If a grant applicant intends to use federal financial assistance in a project which will require the acquisition of real property, the applicant must provide assurances—required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), as amended (42 U.S.C. chapter 61)—that it will comply with the Uniform Act and with DOT implementing regulations (49 CFR part 24) and FTA Circular 5010.1D.

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

Title 49 CFR part 24 is available from the Government Printing Office website at <http://www.gpo.gov/fdsys/pkg/CFR-1999-title49-vol1/pdf/CFR-1999-title49-vol1-part24.pdf> or on FHWA's website at <http://www.fhwa.dot.gov/realestate/49cfr.htm>. Also, recipients should be aware of state laws regarding compensation for real property and requirements for relocation of people and personal property.

Real property may be contributed as part of the local matching share. *See* 49 U.S.C. 18.24, 19.23. Credit can be allowed only for that portion of the property needed to carry out the scope of the project. Federal funds must not have been used to purchase any property proposed as local matching share. The contributed in-kind property must be appraised at its current market value and when incorporated into the project will be subject to the same reporting and disposition requirements required of all project property. The appraisal, including a review appraisal, must be in compliance with 49 CFR part 24 and FTA Circular 5010.1D.

18. **RESTRICTIONS ON LOBBYING.** Federal financial assistance may not be used to influence any member of Congress or an officer or employee of any agency in connection with the making of any federal contract, grant, or Cooperative Agreement. 31 U.S.C. 1352(a). The state, subrecipients, and third-party contractors at any tier awarded FTA assistance exceeding \$100,000 must complete and submit standard form SF-LLL, sign a certification so stating, and must disclose the expenditure of non-federal funds for such purposes. 49 CFR part 20.

Other federal laws also govern lobbying activities. For example, federal funds may not be used for lobbying congressional representatives or senators indirectly, such as by contributing to a lobbying organization or funding a grass-roots campaign to influence legislation. These laws

do not prohibit general advocacy for transit. Providing information to legislators about the services a recipient provides in the community is not prohibited, nor is using non-federal funds for lobbying, so long as the required disclosures are made.

19. SAFETY. MAP-21 amended 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 DOT issue a National Public Transportation Safety Plan, establish safety performance criteria for all modes of public transportation, define a “state of good repair,” establish minimum safety performance standards for public transportation vehicles, and develop a safety certification training program. States are required to strengthen their State Safety Oversight (SSO) programs and submit them to FTA for certification. In addition, public transportation agencies must establish comprehensive agency safety plans for their rail and bus operations. FTA will be issuing regulations and interim guidance to implement these new requirements in consultation with public transportation industry stakeholders.

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

20. SCHOOL BUS TRANSPORTATION. Title 49 U.S.C. 5323(f) prohibits the use of FTA funds for exclusive school bus transportation for school students and school personnel. The implementing regulation (49 CFR part 605) does permit regular service to be modified to accommodate school students along with the general public (“tripper service”). For the purpose of FTA’s school bus regulation, Head Start is considered a social service, not a school program. Rules for the Head Start Program limit the types of vehicles which may be used to transport children participating in a Head Start Program.
21. SEISMIC DESIGN AND CONSTRUCTION STANDARDS. A grant applicant must assure FTA that any new building or addition to an existing building it designs and constructs with federal assistance is compliant with seismic safety standards. The grant applicant is responsible to know before accepting delivery that the building complies with seismic design and construction requirements and, in accordance with DOT implementing regulations, “Seismic Safety,” at 49 CFR 41.117(d), must assure FTA that it will obtain a certificate of compliance with the requirements. A recipient makes this assurance through the FTA annual certification process.
22. SENSITIVE SECURITY INFORMATION. To the extent applicable, the recipient agrees to comply with 49 U.S.C. 40119(b) and implementing DOT regulations, “Protection of Sensitive Security Information,” 49 CFR part 15, and with 49 U.S.C. 114(s) and implementing Department of Homeland Security, Transportation Security Administration regulations, “Protection of Sensitive Security Information,” 49 CFR part 1520.

23. STATE SAFETY OVERSIGHT. MAP-21 did not alter 49 U.S.C. 5330, but subsection 20030(e) of MAP-21 provided that Section 5330 would be repealed three years after the effective date of FTA's regulation implementing the new Section 5329 requirements. Until then, the current regulations at 49 CFR part 659 will remain in effect. The existing regulations require oversight of the System Safety Program Plan development and implementation, internal safety and security audits, accident and hazard investigations, and corrective action plan development and implementation.

Until new regulations are in effect, an oversight agency must continue to annually certify to FTA that it has complied with the requirements of 49 CFR part 659. The oversight agency must submit each certification electronically to FTA using a reporting system specified by FTA. The oversight agency must maintain a signed copy of each annual certification to FTA, subject to audit by FTA.

The current 49 U.S.C. 5330 and the amended 49 U.S.C. 5329 authorize FTA to withhold up to 5 percent of an affected state or UZA's apportionment if FTA determines the state is not in compliance or is not making adequate efforts to comply with the rule. FTA may restore withheld formula funds if the state is in compliance within two years.

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APPENDIX A

INSTRUCTIONS FOR PREPARING A GRANT APPLICATION

1. PREAPPLICATION STAGE.

- a. System Access. Applications for the Federal Transit Administration (FTA) grant program funds must be submitted electronically through the FTA electronic management system. Applicants must have access to FTA's the system in order to enter a grant. If an applicant does not have access to the FTA electronic management system, the applicant's representative should contact the appropriate FTA regional office for assistance. Contact information for FTA's regional offices can be found in Appendix F of this circular.
- b. Planning. Before grant application submission, project planning requirements should be complete and properly documented. Project activities to be funded should be included in a federally approved Statewide Transportation Improvement Program (STIP) for capital projects or a Unified Planning Work Program (UPWP) for planning projects.
- c. Environmental Determination. The impact that a proposed FTA-assisted project will have on the environment must be evaluated and documented in accordance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) before grant approval.
- d. Annual Submission of Certifications and Assurances. A grant applicant applying for assistance under the State of Good Repair Grants Program, or any other FTA grant program, must annually submit Certifications and Assurances that are applicable to the grant applicant's active and new grants during the fiscal year. The Certifications and Assurances should be examined annually for changes, deletions, and additions.
- e. Civil Rights Submissions. Civil rights submissions that may be required include a Title VI Plan, Equal Employment Opportunity (EEO) Program, Disadvantaged Business Enterprise (DBE) Program, DBE Goals, and Americans with Disabilities Act (ADA) Paratransit Plan. FTA's regional civil rights officer must verify that all required Civil Rights submissions are current at the time the grant application is submitted in the FTA electronic management system. The required documentation must be submitted before the official submission of the grant. A grant applicant should maintain readily available records of FTA approvals of Civil Rights submissions in the event a question concerning compliance should arise. ("Civil Rights," see Chapter VII of this circular.) FTA's Office of Civil Rights may request additional information needed to affirm that the proposed project or elements thereof are in compliance with federal civil rights requirements, and/or reports on activities and progress to address findings identified in civil rights compliance reviews and assessments.
- f. Flexible Funding Documentation (If Applicable). A grant applicant seeking the use of flexible funds for its program, or a portion of it, must first make sure that the funds are available locally, in accordance with the specific project selection process for the local

area. Once this resource of funds is included in the Transportation Improvement Program (TIP), and incorporated into the STIP, the grant applicant informs the state transportation agency that a grant application is in development to FTA for the use of flexible funds and requests that the state inform the Federal Highway Administration (FHWA) of the need to transfer the funds to FTA for obligation (in some states, in practice, the Metropolitan Planning Organization [MPO] or FTA notifies the state transportation agency). Once the state highway/transportation agency determines that the state has sufficient obligation authority, the state agency notifies FHWA that the agency will use the funds for public transportation purposes and requests that FHWA transfer funds for the project to FTA. Information showing that these processes are underway should be included in the grant application. The grant applicant should also include the type of flexible funds, the amount, the purpose for which the funds will be used, and where they appear in the STIP.

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

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

Any organization applying for a grant or cooperative agreement from the federal government must have a DUNS number. This is a nine digit identification number which 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). 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.

- b. Project Information. Certain basic information required on the federal Grant Application Standard Form 424 is incorporated into the project set-up fields. Applicants must identify whether the application is a new grant, or a grant amendment, the project start/end date, Executive Order 12372, Intergovernmental Review of Federal Programs, review date if applicable (see additional information about EO 12372 at <http://www.whitehouse.gov>), and grant project costs.
- c. Project Description. This information must be in sufficient detail for FTA to obtain a general understanding of the nature and purpose of the planned activities. There is a

project description field as well as a specific text field for this information associated with each activity line item (ALI). Project activities must be sufficiently described to assist the reviewer in determining eligibility under the program. Sources of funds may also be included in the description.

- d. Information to Support Engineering/Technical Review. For projects involving construction or rehabilitation work, FTA reviews the information provided with the grant application, along with any pertinent documents that may be on record, to make a determination on such things as reasonableness of cost, sufficiency of engineering and design work completed, and eligibility of force account costs. For this reason, a grant applicant needs to include enough detail in the descriptive information about these projects to allow a positive determination during the project review period. For facility construction projects, the grant applicant should indicate the level of engineering work completed, and include the results of that work (i.e., appropriate drawings and cost estimates). FTA needs site selection studies and any pertinent information or documentation concerning environmental work performed for projects involving land acquisition and construction. For more information on the documentation requirements for these types of projects, the grant applicant should contact the appropriate regional office.
- e. Program Date and Page of Statewide Transportation Improvement Program (STIP) or Unified Planning Work Program (UPWP). All projects using capital or operating funds in the grant application must be included in the current STIP. The STIP is jointly approved by FTA and FHWA. FTA funds cannot be obligated unless the STIP is approved by FTA. The application should note the page(s) (or other location reference) in the most recently approved STIP on which the project(s) contained in the application is listed. The FTA electronic management system has a field designated "program date" where the date of the most recent FTA/FHWA STIP approval should be entered. If the grant includes planning activities, the UPWP date should be entered here, if possible, or in the project details Section.
- f. Budget. The appropriate scopes and activity line items (ALIs) should be used when developing the project budget. All rolling stock procurements must include vehicle description and fuel type. The project budget should reflect the precise activities for which the grant funds will be used, and the budget should be prepared in accordance with requirements for the Section 5337 program. The project budget for each grant application that includes associated transit improvement funds must include a scope code for associated transit improvements and specific budget ALIs for associated transit improvements. The grant budget may also include non-add scopes. A non-add scope does not affect the total funds in the budget; it simply allows FTA to query the funding amounts upon request. Non-add scopes are used for Intelligent Transportation Systems (ITS), security funds, funding allocated to tribal governments, and other special emphasis areas.
- g. Determination of Sufficient Funds. All sources of funds must be identified and confirmed. The grant applicant should periodically examine the status of existing grants to make sure that unused fund balances, consisting of funds with a potential to lapse, are

in fact needed to complete those grants. A grantee may deobligate any excess funds during their period of availability so that they may be reobligated into any pending or upcoming grant application. Otherwise excess funds left at the end of the project will be deobligated at closeout and if lapsed, will be lost to the grantee.

FTA reviews the status of a UZA's apportionment, including prior year carryover balances, as well as current year allocations, to make sure that sufficient funds exist to finance the proposed program. FTA obligates Section 5337 program funds on a first-in, first-out basis to make sure that the oldest funds are obligated before more recent funds. This process prevents the potential of funds lapsing in a given UZA, which would render them no longer available to the area for obligation.

- h. Project Milestones. Every ALI in a grant budget must have associated project milestones. The FTA electronic management system will autopopulate milestones for some ALIs; for example, rolling stock purchases will have five associated milestones. If does not prepopulate specific milestones for a particular ALI, use the add function to add a minimum two milestones reflecting the estimated start and end dates for that ALI to the grant application. Recipients should include estimated milestone dates for such events as bid advertisement, bid award, and contract completion.
- i. Environmental Findings. The application should include a proposed classification of each ALI in accordance with FHWA/FTA Environmental Impact and Related Procedures. (See 23 CFR 771.115 and 771.118.) Grant applicants should refer to part 771.118(c) and (d) for a listing of the Class II (categorical exclusion) projects. Most projects under the Section 5337 Program meet the criteria for a categorical exclusion (CE). The application should include sufficient information for FTA to determine whether a CE applies, such as a description of the project, as well as any maps or figures typically included with the application or as requested by the FTA regional office. However, if a project does not clearly meet the criteria for a CE, a grant applicant should contact FTA's regional office for assistance in determining the appropriate environmental review process and level of documentation necessary.

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

- j. Fleet Status. Applications submitted in requesting new or replacement revenue vehicles should include, on the Fleet Status Report page, a summary of the composition of the applicant's entire fleet including the applicant's spare ratio. In the case of replacement, the applicant should state that the vehicles being replaced have met the minimum useful life criteria. A Sample Fleet Status Report can be located in Appendix C of this circular. Official property records (or a Rolling Stock Status Report) must be available upon request by FTA. The source of some of this information may be documentation developed during the metropolitan and statewide transportation planning processes, in which case summary information and precise reference to the earlier material will be acceptable. The requirements for equipment records that must be maintained by the recipient are detailed in FTA C 5010.1D.
- k. Application Submission. Once FTA deems the activities eligible, and determines that all pre-application requirements have been satisfied, FTA assigns a grant number. At this point, the grant is ready to be pinned (signed) and submitted in by the authorized official of the applicant.
- l. Department of Labor Certification. Once the grant application has been submitted by the recipient, the application is forwarded to the Department of Labor (DOL). DOL must certify all State of Good Repair Grants project containing capital expenses before FTA will approve them.
- m. Grant Approval. Once FTA staff determines through a final review of the application that FTA program requirements and other federal requirements have been met, FTA awards and obligates funds requested in the grant.
- n. Grant Execution. After FTA has approved and awarded the grant, the applicant must execute the award before funds can be drawn down from the grant. Grants that indicate the use of preaward activity require the submission of a federal financial report before grant execution. Execution constitutes acceptance of the grant agreement terms and conditions.

3. APPLICATION CHECKLIST.

- a. The following checklist is intended to assist applicants in preparing a complete application.

Section 5337 APPLICATION CHECKLIST	
Part I—Recipient Information	
	Are annual Certifications & Assurances selected and pinned/signed by the authorized official and attorney?
	Is the Recipient Contact, Designated Signatory, Opinion of Counsel, Authorizing Resolution, & other information complete?
	Is UZA/congressional district information entered and accurate?
	Is union contact information entered and accurate?
	Has Civil Rights Program documentation been approved by FTA?
	Has the applicants DUNS number been entered in the appropriate field?
Part II—Project Information	
	Does the Project Description include adequate detailed information of the project(s) such as an appropriate project title?
	Is information on any subrecipient(s) and their projects included?
	Is this a new application or grant amendment?
	Does the application include an appropriate Start/End date?
	If a supplemental agreement is applicable, has “yes” been selected?
	Are activities and program dates consistent with STIP dates and the UPWP if planning activities are included?
	Are STIP/UPWP pages attached in the FTA electronic management system?
	If preaward authority is applicable, has “yes” been selected?
	If federal debt delinquency is applicable, has “yes” been selected. (If yes, grant applicant must explain in details section.)
	Has the EO 12372 Review been completed, if applicable?
	Is sufficient information included to evaluate project specific compliance with ADA, Title VI, and DBE requirements?
	Is UZA/congressional district information entered and accurate?
Part III—Budget	
	Are ALI codes entered under the appropriate scope codes and consistent with project descriptions?
	Are funding percentages and match ratios acceptable?
	Does the funding amount entered in the budget match financial information entered in the “Project Information” field for:
	a. Federal funds
	b. Local match
	Does the rolling stock (vehicle) line item contain accurate information such as:
	a. Description
	b. Fuel type
	Has descriptive information been added in the details section of each ALI that identifies the items being funded using the line item? If appropriate and necessary.
	Where applicable, have non-add scopes been added showing the funds allocated to Intelligent Transportation Systems, security funds, tribal governments, or other special areas of emphasis?
Part IV—Project Milestones	
	Are a minimum of two milestones listed for each ALI or scope? (If an ALI does not have standard milestones, they may be added.)
	Have estimated completion dates been entered?
Part V—Environmental Findings (NEPA)	
	Has an environmental finding been entered for each ALI or scope?
	For Categorical Exclusion II (d), EA, and EIS, have decision documentation been referenced or attached?
Part VI—Fleet Status	
	Has information pertaining to current and future revenue vehicles been entered?
	If applicable, are vehicles entered in the table consistent with the budget?
	If applicable, is the spare ratio 20 percent or less?

4. ECHO INFORMATION.

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

ECHO Control Number
(ECN) _____

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

Initial Setup Info. Change Recipient Information Change

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

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

RECIPIENT INFORMATION	
NAME:	
ADDRESS:	
CITY/STATE/ZIP:	TELEPHONE NUMBER:
CONTACT PERSON NAME:	()
SIGNATURE OF AUTHORIZED OFFICIAL IN FTA	TELEFAX NUMBER:
DATE: //	()

AGENCY INFORMATION	
NAME: <i>Federal Transit Administration</i>	
ADDRESS: <i>1200 New Jersey Avenue, SE Washington, DC 20590</i>	
CONTACT PERSON NAME:	<i>202-366-9748</i>

FINANCIAL INSTITUTION INFORMATION
(Note: Have Your Bank Complete This Section)

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

b. Instructions for Completing Form:

(1) Fill in your ECHO Control Number. If this is an **Initial ECHO Setup**, Agency will assign ECHO Control Number.

(2) Check appropriate box(es):

(a) Initial Setup.

(b) Change in Bank Information.

(c) Change in Recipient Information.

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

- c. Recipient Information Section: Print or type the name of the recipient and address that will receive ECHO/ACH payments. Also include a contact person's name, date, and telephone and telefax numbers.
- d. Financial Institution Information Section: Have your bank fill out this section. They should print or type the name and address of the financial institution who will receive the ECHO/ACH payment. Also included are the ACH coordinator's name, telephone number, nine-digit routing transit number (ABA #), depositor (recipient) account title, depositor (recipient) account number, and type of account (type can **ONLY** be designated as **Checking** or **Saving**), signature and title of representative, date, and telefax number.
- e. Mail the form to the name and address shown in the **Agency Information Section**. This section also includes a contact person's name and telephone number.
- f. If there are any questions, please call **202-366-9748** and ask for the agency's ACH contact.

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APPENDIX B

INSTRUCTIONS FOR PREPARING A PROJECT BUDGET

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

The recipient will use the FTA electronic award management system to prepare project budgets for FTA's various programs. The User's Guide provides detailed instructions on how to create a project budget within the FTA electronic award management system.

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

So that FTA can comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub.L 109-282), enacted September 26, 2006, a designated 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 designated recipient may choose to submit this information as a separate attachment in the FTA electronic award management system or to include the information in the POP.

2. **DEVELOPING THE BUDGET**. FTA uses a scope code to establish the purpose of a group of activities. FTA derives the numbering of both the Scope and Activity levels of information on the Approved Project Budget from the activity codes in the FTA electronic award management system. To find the link to the current scope level codes and activity line items (ALIs), see the main menu of the FTA electronic award management system.
3. **GRANT MODIFICATIONS**. At times, it may be necessary to modify a grant after it has been awarded by revising the budget or amending the grant. The recipient is responsible for managing and monitoring all grant activities to ensure they are implemented according to the approved budget. The manner in which the applicant initially structures a budget during the grant application phase can facilitate or impede project management, particularly when unforeseen events require changes in the project.

There are three ways to modify a grant after it has been awarded—either through a budget revision, an administrative amendment, or a grant amendment. Whether FTA permits a budget revision (with or without prior FTA approval before incurring costs) or whether the

grantee will need an amendment to the project, depends on the effect of the proposed change on the scope of the project. FTA's review of grant modifications will include a determination of whether or not the proposed change is significant enough to require DOL certification of Employee Protective Arrangements. Recipients should contact the FTA regional or metropolitan office for questions relating to grant modification requests, including which type of modification is appropriate for the proposed action.

Grant modifications are electronically submitted, reviewed, and approved in the FTA electronic award management system.

a. Budget Revision.

- (1) General. Budget revisions may be made as long as there is no change in the recipient, purpose, scope codes, and federal funding of the grant, regardless of the fiscal year the funds were appropriated. Budget revisions must be consistent with the activities contained in an approved Statewide Transportation Improvement Program (STIP) and satisfy applicable National Environmental Policy Act (NEPA) requirements. Useful life of new equipment must be addressed in the budget revision, as applicable.
- (2) Procedures. Grantees submit budget revisions in the FTA electronic award management system using the "Revise Project Budget" screen. Budget revision requests must include a reason for the revision. For each ALI being adjusted, either by quantity or dollar amount, grantees must include a brief explanation in the "Details" section for the change being requested. The FTA reviewer will return incomplete budget revisions to the grantee for more information. For assistance with completing budget revisions, please contact the FTA regional or metropolitan office.

Recipients may request budget revisions either before or after incurring costs, depending on the nature of the request. If the budget revision meets the criteria outlined below, FTA concurrence is required before costs associated with the proposed change are incurred.

- (3) Budget Revisions that Require Prior Approval. Under certain circumstances, grantees must obtain FTA approval before incurring costs for proposed budget revisions. At times, FTA review of a proposed budget revision meeting the criteria below may result in a recommendation to complete a grant amendment. The FTA regional or metropolitan office will make this determination during its review.
 - (a) The federal share of the grant exceeds \$100,000 and the change in the cumulative amount of funds allocated to each scope from the originally approved scope exceeds 20 percent.
 - (b) Federal funds are transferred between ALIs with different federal matching ratios, such as moving funds from a capital activity with a match ratio of 80/20 to an operating activity with a match ratio of 50/50. This activity also requires a financial purpose code (FPC) transfer.

- (c) Changing the federal share of an existing ALI, such as changing an ALI from 80/20 to 85/15 to account for compliance with Americans with Disabilities Act (ADA) or Clean Air Act (CAA) requirements.
- (d) For revenue rolling stock, when the budget revision changes the number of vehicles to be purchased by more than two units, for grants with fewer than ten vehicles, or more than 20 percent from the quantity identified in the original grant.

Note: If the change in the number of revenue rolling stock vehicles exceeds 20 percent, the revision must meet FTA's spare ratio requirements, and a bus fleet status report should support it.

- (e) The budget revision changes the size or physical characteristics of the ALIs without changing the project scope.
- (f) The addition of an ALI to an existing scope included in the grant, provided that the request does not change the amount of federal funds awarded in the original grant or change the scope of the project contained in the grant.
- (g) The addition of an activity within an approved scope requires that the grantee affirm in the budget revision request that the new activity is consistent with the approved STIP and, if applicable, has satisfied NEPA requirements.

Note: If an ALI to an existing scope is added to move a facility project to the next phase of construction, the budget revision may be sent to DOL for informational purposes. In addition, FTA must confirm eligibility of the project to advance to the next phase of construction.

- (4) Examples. The following are examples of situations when a grantee might request a budget revision. **Note:** If the examples below meet one of the criteria outlined above, the grantee must request FTA concurrence prior to incurring the costs for the requested activities.
 - (a) Budget revisions to existing Activity Line Items (ALIs). Grant AB-54-0002-00 includes a scope for vehicles (111-00) with the ALI to purchase forty-foot buses (11.12.01) and a scope for stations stops/terminals (113-00) with the ALI for construction of a bus terminal (11.33.01). The construction costs for the station are expected to be higher than originally anticipated and there is a surplus in the vehicle line item because the vehicle costs were less than anticipated. A grantee may request to move funds from ALI 11.12.01 to 11.33.01 to cover added construction expenses. Following the process described above and after determining if the request meets the threshold for prior FTA approval, the grantee may request to move the excess funds from 11.12.01 to 11.33.01.
 - (b) Adding an ALI to an existing scope. The scope for Stations Stops/Terminals exists in the grant and funds are allocated to acquire route signing (11.32.09). However, the grantee determines that it prefers to use the funds to construct

passenger shelters (11.33.10), which is an activity within the scope 113-00. The grantee may request a budget revision to add the ALI—11.33.10 and shift the funds from 11.32.09 with prior FTA concurrence. In addition, the grantee must confirm that the approved STIP includes construction of passenger shelters or stations and has satisfied applicable NEPA requirements.

b. Administrative Amendment.

(1) General. An administrative amendment is usually initiated by FTA and may only be used when no change will result in the scope, amount, or purpose of the grant. FTA may use an administrative amendment to change or clarify the terms, conditions, or provisions of a grant agreement. FTA also uses an administrative amendment to change the year or type of funds obligated for a grant, to transfer equipment from one grantee to another, to reflect a change in the grantee or grantee's name, or to deobligate federal funds that the grantee no longer needs to complete the approved project scope or purpose.

c. Grant Amendment.

(1) General. FTA requires a grant amendment when there is either a change in the scope or an addition of federal funds to an existing grant. Grant amendments are subject to the same application requirements as a new grant request.

(2) Procedures. Grantees submit grant amendments in the FTA electronic award management system using the "Create Amendment" screen. Grant amendments require a revised grant agreement, revised budget, and may require a change in the amount of funds obligated for the grant. An amendment is subject to the same requirements as a new grant request except that the grantee does not need to resubmit the portions of the original grant application that the change did not affect. The grantee must submit a detailed description of the changes and a revised project budget. For example, in the FTA electronic award management system under the project details Section of the grant, grantees should include a header, for example, "Amendment #1," and describe the reason for the amendment and the changes to the grant and budget.

(3) Change of Scope. FTA requires a grant amendment if the request changes the scope of a grant. Examples and an exception to changes in scope that result in a grant amendment include:

(a) Examples.

1. A change in the quantity of items the grantee will purchase or construct that changes the purpose or intent of the approved grant.
2. The addition of a new project scope code or the deletion a project scope code if the deletion affects the intent or objectives of the grant.

3. The addition of an ALI that results from an amendment to the approved Transportation Improvement Program (TIP)/STIP.
4. Budget revisions that result in additions or deletions of scope(s) or ALIs are sent to DOL for information. Grant amendments are sent to DOL for certification.

(4) Change in Federal Funds. FTA requires a grant amendment if the request changes the total amount of federal funds in the grant. The one exception is if the request does not change the scope of a grant and the only action is the deobligation of funds, an administrative amendment is used to process the grant modification.

4. FORMAT FOR CAPITAL ASSISTANCE. Eligible capital expenditures under the Section 5337 Program are defined in 49 U.S.C. 5337(b)(1). Careful attention to use of the appropriate ALI codes enables FTA to report accurately on the use of formula and discretionary funds, for example in the annual Statistical Summary report.

For capital projects, the recipient should first select the appropriate scope code. Then for each scope, an ALI or ALIs should be selected.

EXHIBIT B-1
Project Scope—Sample No. 1

Scope	Quantity
111-010 Bus—Rolling Stock	6
Activity Line Items	Quantity
11.12.02 Purchase thirty-five-foot replacement buses with lifts	4
11.12.01 Purchase forty-foot replacement buses with lifts	2
11.12.40 Spare Parts/Assoc Capital Maintenance Items	

In the example above, a mix of rolling stock will be purchased, and the scope includes the purchase of associated capital maintenance items (spare parts).

It is also possible to combine activities that are associated, but which do not necessarily match the first three digits of the scope code under which they appear.

EXHIBIT B-2
Project Scope—Sample No. 2

Scope	Quantity
126-00 Signal/Communication (Rail)	1
Activity Line Items	Quantity
12.64.20 Signal/Communication Rehab & Upgrades	1

Scope		Quantity
123-00	Rail - Station/Stops/Terminals	4
Activity		Quantity
12.34.06	Ticket Vending Machine Replacement	4
12.44.42	Rehab/Renov Excl Bicycles Facility	1
Scope		Quantity
122-00	Rail Transitway Lines	1
Activity		Quantity
12.24.05	San Mateo Bridges Replacement	1

If a grant applicant wishes to replace radios and fareboxes as part of this purchase, it could also list radios and fareboxes as part of the rolling stock scope. In such a case, the grant applicant would not include the quantities for the radios and fareboxes in the rolling stock total quantity under 111-01, but would indicate it in the activity level description.

- a. Subrecipient Information. The design of the Project Budget can also accommodate subrecipient information in cases where a recipient such as the state wishes to track each subrecipient's projects separately. In the following examples, the grant applicant is purchasing replacement rolling stock on behalf of two small operators:

EXHIBIT B-3
Presenting Subrecipient Information—Format Option No. 1

Scope		Quantity
111-010	Bus rolling Stock	7
Activity		Quantity
11.12.03	Purchase replacement buses w/lifts for Allegany County	3
11.12.03	Purchase replacement buses w/lifts for Cumberland Transit System	4
11.44.02	Rehab/Renovate – Maintenance Facility	1
11.64.03	Rehab/Renovate Radios	

EXHIBIT B-4
Presenting Subrecipient Information—Format Option No. 2

Scope		Quantity
111-00	Rolling Stock for Allegany County	3
Activity	Line Items	Quantity
11.12.03	Purchase replacement buses w/lifts for Allegany County	3
Scope		Quantity
111-01	Rolling Stock for Cumberland Transit System	4
Activity	Line Items	Quantity
11.12.02	Purchase replacement buses w/lifts for Cumberland Transit System	4

Under Format Exhibit B-3, FTA would base the determinations regarding budget revisions and scope changes on the quantity total of seven vehicles found at the scope level. Under Format Exhibit B-4, FTA would base those determinations on the specific scope level quantity for each of the subrecipients, that is, quantities of three and four.

- b. Two Budget Approaches to Large Capital Projects. A grant applicant can also choose which of the two format options above best suit its internal management of projects. For example, a grant applicant rehabilitating a Bus Rapid Transit line or a rail line may wish to develop separate scope level activities for each station and include the relevant activities under each, or the same grant applicant may wish to group all activity under one scope.

In either case, the project budget can easily accommodate budget revisions, since funds can be transferred between or among various scope level projects and their associated line items.

5. REGIONAL ASSISTANCE. Grant applicants should contact the appropriate FTA regional office for assistance in preparing the project budget for a Section 5337 Program grant application.

Sample Budget for State of Good Repair Project

DOT



U.S. Department of Transportation
Administration

Federal Transit

Application for Federal Assistance

Recipient ID:	0001
Recipient Name:	ANYWHERE TRANSIT DISTRICT
Project ID:	ST-54-0061-00
Budget Number:	4—Budget Approved
Project Information:	FY 2014 Section 5337

Project Budget

	<u>Quantity</u>	<u>FTA Amount</u>	<u>Tot. Elig. Cost</u>
<u>SCOPE</u>			
127-00 FY 2014 RAIL PREVENTIVE MAINTENANCE	0	\$14,770,600.00	\$18,463,250.00
<u>ACTIVITY</u>			
12.7A.00 FY 2014 RAIL PREVENTIVE MAINTENANCE	0	\$14,770,600.00	\$18,463,250.00
<u>SCOPE</u>			
122-00 CAPITAL ASSET LEASE - AMTRAK	0	\$6,973,000.00	\$8,716,250.00
<u>ACTIVITY</u>			
12.26.20 CAPITAL ASSET LEASE - AMTRAK	0	\$6,973,000.00	\$8,716,250.00
<u>SCOPE</u>			
121-02 FY 2014 RAIL VOH	1	\$14,916,129.00	\$18,645,163.00
<u>ACTIVITY</u>			
12.17.00 FY 2014 RAIL - VEH OVERHAUL	1	\$6,734,824.00	\$8,418,531.00
12.72.09 FY 2014 - RAIL FORCE ACCT VEHICLE REHAB	0	\$7,412,176.00	\$9,265,220.00
12.79.00 FY 2014 - RAIL PROJECT ADMINISTRATION (RAIL)	0	\$769,129.00	\$961,412.00
<u>SCOPE</u>			
127-01 SERIES 2011 BOND RE-PAYMENT	0	\$13,655,900.00	\$17,069,876.00

	<u>Quantity</u>	<u>FTA Amount</u>	<u>Tot. Elig. Cost</u>
<u>ACTIVITY</u>			
12.71.11 SLV RAIL CARS - DEBT SERVICE	0	\$12,289,657.00	\$15,362,072.00
12.71.11 WAYNE JUNCTION INTERMODAL FACILITY RENOVATION - DEBT SERVICE	0	\$1,366,243.00	\$1,707,804.00
Estimated Total Eligible Cost:			\$62,894,539.00
Federal Share:			\$50,315,629.00
Local Share:			\$12,578,910.00

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

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APPENDIX C

SAMPLE DOCUMENTS AND OTHER EXAMPLES

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Sample Authorizing Resolution	C-2
Sample Opinion of Counsel	C-4
Fleet Status Report as Seen in the FTA Electronic Award Management System (Screen Sample).....	C-5
Proceeds from Sale of Transit Assets	C-6
Like-kind Exchange Example (Calculation Tool).....	C-7
Supplemental Agreement	C-8

1. SAMPLE AUTHORIZING RESOLUTION.

Resolution No. _____

Resolution authorizing the filing of applications with the Federal Transit Administration, an operating administration of the United States Department of Transportation, for federal transportation assistance authorized by 49 U.S.C. Chapter 53; Title 23, United States Code, or other federal statutes administered by the Federal Transit Administration.

WHEREAS, the Federal Transit Administrator has been delegated authority to award federal financial assistance for a transportation project;

WHEREAS, the grant or cooperative agreement for federal financial assistance will impose certain obligations upon the Applicant, and may require the Applicant to provide the local share of the project cost;

WHEREAS, the Applicant has or will provide all annual certifications and assurances to the Federal Transit Administration required for the project;

NOW, THEREFORE, BE IT RESOLVED BY (Governing Body of Applicant)

1. That (Title of Designated Official) is authorized to execute and file an application for federal assistance on behalf of (Legal Name of Applicant) with the Federal Transit Administration for federal assistance authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other federal statutes authorizing a project administered by the Federal Transit Administration. (If the Applicant is requesting Urbanized Area Formula Program assistance authorized by 49 U.S.C. 5337, either alone or in addition to other federal assistance administered by the Federal Transit Administration, the resolution should state whether the Applicant is the Designated Recipient as defined by 49 U.S.C. 5302(4), or whether the Applicant has received authority from the Designated Recipient to apply for Urbanized Area Formula Program assistance.)
2. That (Title of Designated Official) is authorized to execute and file with its applications the annual certifications and assurances and other documents the Federal Transportation Administration requires before awarding a federal assistance grant or cooperative agreement.
3. That (Title of Designated Official) is authorized to execute grant and cooperative agreements with the Federal Transit Administration on behalf of (Legal Name of Applicant).

CERTIFICATION

The undersigned duly qualified (Title of Designated Official), acting on behalf of the (Legal Name of Applicant), certifies that the foregoing is a true and correct copy of a resolution adopted at a legally convened meeting of the

(Governing Body of the Applicant) held on (Month, Day, Year)

[If the Applicant has an official seal, impress here.]

(Signature of Recording Officer)

(Title of Recording Officer)

(Date)

2. SAMPLE OPINION OF COUNSEL.

Name of Applicant
Address of Applicant

Dear (Responsible Official for Applicant):

This communication will serve as the requisite opinion of counsel to be filed with the Federal Transit Administration, United States Department of Transportation, in connection with the application of (Name of Applicant) for federal transportation assistance authorized by 49 U.S.C. Chapter 53; Title 23, United States Code; and other federal statutes authorizing activities administered by the Federal Transit Administration.

(If the Applicant intends to use this opinion to qualify for the State of Good Repair Grants Program assistance authorized by 49 U.S.C. 5337, the opinion must state whether the Applicant is the Designated Recipient as defined at 49 U.S.C. 5302(4) or whether the Applicant has received authority from the Designated Recipient to apply for and receive Urbanized Area Formula Program assistance.)

Citations to laws, regulations, etc. establishing the legal authority of (Name of Applicant) to carry out transportation projects for which federal assistance is sought is set forth below:

1. _____ is authorized by (cite and quote from legal authority) to provide and assist transportation _____

2. The authority of (Name of Applicant) to provide funds for the local share of the project is set forth in (cite source and provide a copy of, for example, the local ordinance passed by City Council or other governing body authorizing funding for the local share)

3. I have reviewed the pertinent federal, state, and local laws, and I have concluded that there is no legal impediment to your filing an application for the project for which (Name of Applicant) seeks assistance. Furthermore, as a result of my examination, I find that there is no pending or threatened litigation or other action which might in any way adversely affect the proposed project or the capability of (Name of Applicant) to carry out the project.

Sincerely,

Legal Counsel

3. **FLEET STATUS REPORT.** Shown below is a screen sample of a Fleet Status Report as seen in the FTA electronic award management system:

Light Rail

		<u>Before</u>	<u>Change</u>	<u>After</u>
I.	Active Fleet			
	A. Peak Requirement	102	18	120
	B. Spares	25	0	25
	C. Total (A+B)	127	18	145
	D. Spare Ratio (B/A)	24.51%	0.00%	20.83%
II.	Inactive Fleet			
	A. Other	0	0	0
	B. Pending Disposal	0	0	0
	C. Total (A+B)	0	0	0
III.	Total (I.C and II.C)	127	18	145

Active Fleet: The "Before" column shown planned service immediately before the Orange Line opens. The "Change" column shows the purchase of all eighteen vehicles.

4. PROCEEDS FROM THE SALE OF PUBLIC TRANSPORTATION ASSETS.

Pursuant to 49 U.S.C. 5334(h), a recipient may transfer or sell capital assets that it has acquired with FTA assistance. In accordance with 49 U.S.C. 5334(h)(4), the recipient must apply the proceeds of the sale of public transportation assets no longer needed to a subsequent public transportation capital project.

A recipient intending to dispose of an asset in accordance with 49 U.S.C. 5334(h) should inform FTA of its intentions, before disposing of the asset, in order to obtain FTA approval.

When the recipient/applicant next submits a grant application to FTA, it must apply the proceeds to reduce the gross capital costs of the new public transportation project. In the FTA electronic award management system, the grant applicant should indicate the amount of the proceeds in the "Adjustment Amount" field; this shows that the proceeds from the earlier disposition are being applied to the project and that those proceeds are being used to reduce the total eligible cost. If appropriate, the grant applicant may also describe this action in the Project Description or Extended Budget Description text box.

EXAMPLE.

Twenty years ago FTA provided a recipient with assistance to purchase a parcel of land. The recipient no longer needs the parcel for public transportation purposes. Having received disposition concurrence from FTA, the recipient sells the parcel and receives net sales proceeds of \$50,000. The recipient applies to FTA for assistance in purchasing a bus. The estimated cost of the bus is \$250,000. On the electronic application screen, FTA expects the recipient to report the use of the proceeds from the earlier sale of the asset in the following manner:

5. LIKE-KIND EXCHANGE EXAMPLE FOR TRANSIT BUS.

A recipient purchased a new bus in 2005 for \$250,000; 80 percent of the total price, or \$200,000, was federal funding while 20 percent, or \$50,000, was local. Thus, there was an initial \$200,000 "federal interest" in the new vehicle.

Instead of keeping the bus in service for twelve years, the useful life under FTA guidelines, the recipient chose to sell the bus after six years and replace it with a new vehicle.

Since the bus had a minimum useful life of twelve years and FTA determined its depreciation on a "straight-line" basis, the depreciated value of the vehicle after six years was half the original price, or \$125,000. The remaining federal interest was 80 percent of that figure, \$100,000.

Assume, for example, the recipient realized \$100,000 from the sale of the six-year-old bus, or \$25,000 less than the straight-line depreciated value of the original vehicle.

If the recipient were to purchase a new bus in 2011 for \$270,000, the transaction would look like this:

Net project cost calculation:

Gross project cost of new bus	\$270,000
Less straight-line depreciated value of replaced bus.	<u>- 125,000</u>
Net project cost	\$145,000
Federal share 80%	116,000
Local share 20%	29,000

Sources of funds for new bus:

Net sales proceeds from replaced bus	\$100,000
New local cash	
Straight-line depreciated value shortfall	25,000
Local share of net project cost	29,000
Federal share	<u>116,000</u>
TOTAL	\$270,000

The federal interest in the new bus is \$216,000 (\$100,000 transferred from the old vehicle and \$116,000 in the new).

If the recipient had received more than \$125,000 in proceeds, all the proceeds (minus reasonable sales costs) would still have been applied as the federal share to the new vehicle. FTA is entitled to have applied to the new vehicle the greater of the straight-line depreciation or the fair market value as evidenced by the sales proceeds.

6. SAMPLE SUPPLEMENTAL AGREEMENT.

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION
SUPPLEMENTAL AGREEMENT
(Attachment to FTA G-15, October 1, 2008)**

It is the practice of the Federal Transit Administration to enter into a formal agreement with the Designated Recipient for projects that the Designated Recipient does not carry out directly. Under this Grant Agreement, the Grant Recipient is not the Designated Recipient. Therefore, the Designated Recipient hereby agrees to permit the Grant Recipient under this Grant Agreement to receive and dispense the Federal assistance funds described in this Grant Agreement. The Designated Recipient further agrees that the Grant Recipient shall assume all responsibilities set forth in this Grant Agreement.

The Federal Government and the Grant Recipient under this Grant Agreement hereby agree that the Designated Recipient is not in any manner subject to or responsible for the terms and conditions of this Grant Agreement and is a party to this Grant Agreement only to assign the right to receive and dispense Federal funds to the Grant Recipient as described above.

Signature: _____ Date: _____
Name (Print/Type): _____
Authorized Official
Federal Transit Administration

Signature: _____ Date: _____
Name (Print/Type): _____
Authorized Official
Designated Recipient

Signature: _____ Date: _____
Name (Print/Type): _____
Authorized Official
Grant Recipient

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APPENDIX D

FTA REGIONAL AND METROPOLITAN CONTACT INFORMATION

Office	Area Served	Contact Information
Region I	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont	Volpe National Transportation Systems Center Kendall Square 55 Broadway, Suite 920 Cambridge, MA 02142-1093 Phone: 617- 494-2055 Fax: 617-494-2865
Region II	New York and New Jersey	One Bowling Green Room 429 New York, NY 10004-1415 Phone: 212-668-2170 Fax: 212-668-2136
Region III	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia	1760 Market St Suite 500 Philadelphia, PA 19103-4124 Phone: 215-656-7100 Fax: 215-656-7260
Region IV	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and U.S. Virgin Islands	230 Peachtree Street NW Suite 800 Atlanta, GA 30303 Phone: 404-865-5600 Fax: 404-865-5605
Region V	Illinois, Indiana, Minnesota, Michigan, Ohio, and Wisconsin	200 W Adams St Suite 320 Chicago, IL 60606 Phone: 312-353-2789 Fax: 312-886-0351
Region VI	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas	819 Taylor St Room 8A36 Forth Worth, TX 76102 Phone: 817-978-0550 Fax: 817-978-0575
Region VII	Iowa, Kansas, Missouri, and Nebraska	901 Locust, Suite 404 Kansas City, MO 64106 Phone: 816-329-3920 Fax: 816-329-3921

Office	Area Served	Contact Information
Region VIII	Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming	12300 W Dakota Ave. Suite 310 Lakewood, CO 80228-2583 Phone: 720-963-3300 Fax: 720-963-3333
Region IX	Arizona, California, Hawaii, Nevada, Guam, American Samoa, and Northern Mariana Islands	201 Mission St. Room 1650 San Francisco, CA 94105-1839 Phone: 415-744-3133 Fax: 415-744-2726
Region X	Alaska, Washington, Oregon, and Idaho	Jackson Federal Building 915 Second Ave, Suite 3142 Seattle, WA 98174-1002 Phone: 206-220-7954 Fax: 206-220-7959
Lower Manhattan Recovery Office	Lower Manhattan	1 Bowling Green, Room 436 New York, NY 10004 Phone: 212-668-1770 Fax: 212- 668-2505
New York Metropolitan Office	New York Metropolitan Area	One Bowling Green, Room 428 New York, NY 10004-1415 Telephone: 212-668-2201 Fax: 212-668-2136
Chicago Metropolitan Office	Chicago Metropolitan Office	200 West Adams Street Suite 2410 (24th floor) Chicago, IL 60606 Telephone: 312-886-1616 Fax: 312-886-0351
Los Angeles Metropolitan Office	Los Angeles Metropolitan Area	888 S. Figueroa, Suite 1850 Los Angeles, CA 90012 Telephone: 213-202-3950 Fax: 213-202-3961
Washington, DC Metropolitan Office	Washington, DC Metropolitan Area	1990 K Street NW, Suite 510 Washington, DC 20006 Telephone: 202-219-3562/3565 Fax: 202-219-3545

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APPENDIX E

REFERENCES

- a. Federal Transit Laws, Title 49, United States Code, Chapter 53.
- b. Federal-aid highway and surface transportation laws, Title 23, United States Code.
- c. Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, (SAFETEA-LU) (Pub. L. 109-59, 119 Stat. 1144, Aug. 10, 2005).
- d. Transportation Equity Act for the 21st Century (TEA-21) (Pub. L. 105-178, 112 Stat. 107, June 9, 1998).
- e. Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Pub. L. 102-240, 105 Stat. 1914, Dec. 18, 1991).
- f. Federal Public Transportation Act of 1978 (Pub. L. 95-599, Nov. 6, 1978).
- g. Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*
- h. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794.
- i. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d.
- j. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e.
- k. Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*
- l. Section 404 of the Clean Water Act, as amended, 33 U.S.C. 1344.
- m. Policy on Lands, Wildlife, and Waterfowl Refuges, and Historic Sites, 49 U.S.C. 303.
- n. Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f.
- o. Internal Revenue Code, Non-profit Organizations, 26 U.S.C. 501.
- p. Lobbying Restrictions, 31 U.S.C. 1352.
- q. Disadvantaged Business Enterprises, 23 U.S.C. 101 note.
- r. Program Fraud Civil Remedies Act, 31 U.S.C. 3801 *et seq.*
- s. Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended, 42 U.S.C. 4601, *et seq.*
- t. Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 *et seq.*
- u. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 *et seq.*
- v. National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*

- w. Davis-Bacon Act, as amended, 40 U.S.C. 3141 *et seq.*
- x. Drug-Free Workplace Act of 1988, as amended, 41 U.S.C. 701 *et seq.*
- y. DOT regulations, “Organization and Delegation of Powers and Duties,” 49 CFR Part 1.
- z. DOT regulations, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,” 49 CFR Part 18.
- aa. DOT regulations, “New Restrictions on Lobbying,” 49 CFR Part 20.
- bb. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964,” 49 CFR Part 21.
- cc. DOT regulations, “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs,” 49 CFR Part 24.
- dd. DOT regulations “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 CFR Part 25.
- ee. DOT regulations, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,” 49 CFR Part 26.
- ff. DOT regulations, “Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance,” 49 CFR Part 27.
- gg. DOT regulations, “Governmentwide Debarment and Suspension (Nonprocurement),” 49 CFR Part 29.
- hh. DOT regulations, “Governmentwide Requirements for Drug-Free Workplace (Financial Assistance),” 49 CFR Part 32.
- ii. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 CFR Part 37.
- jj. DOT regulations, “Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles,” 49 CFR Part 38.
- kk. DOT regulations, “Procedures for Transportation Workplace Drug and Alcohol Testing Programs,” 49 CFR Part 40.
- ll. FTA regulations, 49 CFR Subtitle B Chapter VI.
- mm. Joint FHWA/FTA regulations, “Planning Assistance and Standards,” 23 CFR Part 450 and 49 CFR Part 613.
- nn. Joint FHWA/FTA regulations, “Environmental Impact and Related Procedures,” 23 CFR Part 771 and 49 CFR Part 622.
- oo. Federal Motor Carrier Safety Administration regulations, “Controlled Substances and

- Alcohol Use and Testing,” 49 CFR Part 382.
- pp. U.S. Department of the Treasury regulations, “Rules and Procedures for Efficient Federal-State Funds Transfers,” 31 CFR Part 205.
 - qq. U.S. Environmental Protection Agency regulations, “Determining Conformity of Federal Actions to State or Federal Implementation Plans,” 40 CFR Part 93.
 - rr. Executive Order 12372, “Intergovernmental Review of Federal Programs,” July 14, 1982.
 - ss. Executive Order 12898, “Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations,” Feb. 11, 1994.
 - tt. Office of Management and Budget Circular A-87, “Cost Principles for State, Local, and Indian Tribal Governments,” codified at 2 CFR Part 225, Aug. 31, 2005.
 - uu. Office of Management and Budget Circular A-94, “Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs,” Oct. 29, 1992.
 - vv. Office of Management and Budget Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations,” June 23, 2003.
 - ww. Department of Transportation Order to Address Environmental Justice in Minority Populations and Low-Income Populations, 62 FR 18377 (Apr. 15, 1997).
 - xx. DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons, 70 FR 74087 (Dec. 14, 2005).
 - yy. FTA Circular 4220.1, “Third Party Contracting Requirements.”
 - zz. FTA Circular 4702.1, “Title VI Program Guidelines for FTA Recipients.”
 - aaa. FTA Circular 5010.1D, “Grant Management Requirements.”
 - bbb. FTA Circular 9030.1E, “Urbanized Formula Program Guidance and Application Instructions.”
 - ccc. U.S. General Services Administration, “Excluded Parties List System,” <https://www.sams.gov>.
 - ddd. FTA Master Agreement FTA MA(15), Oct. 1, 2008.
 - eee. FTA ECHO-Web System Operations Manual
<http://www.fta.dot.gov/documents/ECHOWebRecipientUserManual.pdf>

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