



U.S. Department  
of Transportation  
**Federal Transit  
Administration**

## CIRCULAR

**FTA C 9040.1H**

**November 1, 2024**

### **Subject: RURAL AREAS FORMULA GRANT PROGRAMS GUIDANCE**

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1. **PURPOSE**. This circular is a reissuance of guidance on the administration and preparation of grant applications for the Formula Grants for Rural Areas Program under 49 U.S.C. 5311 and the Grants for Buses and Bus Facilities Program under 49 U.S.C. 5339. This revision incorporates provisions of the Bipartisan Infrastructure Law, enacted as the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117-58 (2021)), and includes the most current available guidance as of the date of publication. To the extent this circular is inconsistent with changes in any statute or regulation, the statute or regulation will supersede this circular. This circular is in effect as of November 1, 2024.
2. **CANCELLATION**. This circular cancels Federal Transit Administration (FTA) Circular 9040.1G, “Formula Grants for Rural Areas: Program Guidance and Application Instructions,” dated November 24, 2014, and FTA Circular 5100.1, “Bus and Bus Facilities Program: Guidance and Application Instructions,” dated May 18, 2015.
3. **AUTHORITY**.
  - a. Federal Transit Laws, Title 49 U.S.C. Chapter 53.
  - b. 49 Code of Federal Regulations (CFR) 1.91.
4. **WAIVER**. FTA reserves the right to waive any provisions of this circular to the extent permitted by Federal law or regulation.
5. **FEDERAL REGISTER NOTICE**. In conjunction with publication of this circular, a Federal Register notice will be published addressing comments received during the development of the circular.
6. **AMENDMENTS TO THE CIRCULAR**. Without further notice and comment on this 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. FTA will post updates on

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the [FTA website](#). The website allows the public to register for notification when FTA issues Federal Register notices or new guidance. Please visit the website and click “Subscribe to Email Updates” for more information.

7. ACCESSIBLE FORMATS. This document is available in accessible formats upon request. To obtain paper copies of this circular and 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.



Veronica Vanterpool  
Deputy Administrator

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. Recipients and subrecipients should refer to statutes and regulations for applicable requirements.

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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 (USDOT) and is headed by an administrator appointed by the President of the United States. FTA functions through a Headquarters Office in Washington, DC, 10 Regional Offices, and several Metropolitan Offices. These offices assist transit agencies in all 50 States; the District of Columbia; Puerto Rico; the U.S. Virgin Islands; Guam; the Northern Mariana Islands; and American Samoa, including federally recognized Indian Tribes.

As defined in 49 U.S.C. 5302, “public transportation” means regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income. Public transportation generally includes but is not limited to transportation services provided by buses; heavy rail; light rail; commuter rail; fixed guideway; bus rapid transit; passenger ferryboats; trolleys; inclined railways; people movers; vans; streetcars; jitneys; and aerial tramways. Public transportation can be either fixed-route or demand-response service but excludes intercity passenger rail provided by Amtrak; intercity bus service; charter bus service; school bus service; sightseeing services; courtesy shuttle services provided by individual businesses; and intra-terminal or intra-facility shuttle services.

The Federal Government, through FTA, provides financial assistance to develop new transit systems and improve, maintain, and operate existing systems. FTA oversees thousands of awards to hundreds of State and local transit providers, primarily through its 10 Regional Offices. FTA conducts oversight to ensure compliance with Federal statutory and administrative requirements and is authorized to establish national standards and requirements, conduct necessary safety oversight, and issue directives to ensure the safety of the Nation’s public transportation systems. Recipients and subrecipients of Federal assistance are responsible for managing their projects and programs in accordance with Federal requirements, and FTA is responsible for ensuring that recipients follow Federal statutory and administrative requirements.

2. AUTHORIZING LEGISLATION AND GUIDANCE. Most Federal transit laws are codified at 49 U.S.C. Chapter 53. Authorizing legislation enacted by Congress establishes or continues the legal operation of a Federal program or agency. FTA’s most recent authorizing legislation is the Infrastructure Investment and Jobs Act (IIJA), Pub. L. 117-582, signed into law on November 15, 2021. The legislation reauthorizes surface transportation programs for fiscal years (FY) 2022 through 2026. This circular reflects changes to Federal transit law and



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changes required by other laws that have become effective since the circular was last published in November 2014.

3. HOW TO CONTACT FTA. FTA's Regional and Metropolitan Offices are responsible for managing financial assistance to FTA recipients and oversight of implementation for most FTA programs. Certain programs are the responsibility of FTA Headquarters Offices. Inquiries should be directed to either the FTA Regional or Metropolitan Office responsible for the geographic area in which the recipient is located. See [FTA's website](#) for contact information.

For further information visit the FTA website or contact FTA at the following address and phone number:

Federal Transit Administration  
Office of Communications and Congressional Affairs  
1200 New Jersey Avenue SE.  
Room E56-205  
Washington, DC 20590  
Phone: 202-366-4043  
Fax: 202-366-3472

4. DEFINITIONS AND ACRONYMS. All definitions in 49 U.S.C. 5302, 5311, and 5339 apply to this circular. The following also apply:
  - a. Definitions:
    - (1) Appalachian Region. The term "Appalachian region" has the same meaning as in 40 U.S.C. 14102. Appalachian region means an area of the eastern United States consisting of several counties from the following States: Alabama; Georgia; Kentucky; Maryland; Mississippi; New York; North Carolina; Ohio; Pennsylvania; South Carolina; Tennessee; Virginia; and West Virginia.
    - (2) Applicant. An entity that is seeking but has not yet been awarded specific Federal financial assistance directly from FTA in the form of a grant or cooperative agreement.
    - (3) Award. Used interchangeably with grant.
    - (4) Capital Asset. A unit of rolling stock; land; a facility; a unit of equipment; an element of infrastructure; or intellectual property (including software) that has a useful life of more than one year and is capitalized in accordance with Generally Accepted Accounting Principles (GAAP). Capital asset also includes an addition; improvement; modification; replacement; rearrangement; reinstallation; renovation; or alteration to capital assets that materially increases the value of the asset (apart from ordinary repairs and maintenance). Capital assets do not include intangible

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right-to-use assets (per Governmental Accounting Standards Board (GASB)) and right-to-use operating lease assets (per Financial Accounting Standards Board (FASB)).

- (5) Capital Project. A category of reimbursable project expenses that includes all activities identified in 49 U.S.C. 5302(4).
- (6) 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 or full electric; fuel cell; clean diesel; or other low or zero emissions technology that the administrator of the Environmental Protection Agency (EPA) has certified sufficiently reduces harmful emissions.
- (7) Consultation. One party confers with another identified party in accordance with an established process and, before taking action(s), considers that party's views and periodically informs that party about action(s) taken.
- (8) Coordinated Plan. See "Coordinated Public Transit-Human Services Transportation Plan."
- (9) Coordinated Public Transit-Human Services Transportation Plan. A locally developed coordinated transportation plan that identifies the transportation needs of individuals with disabilities, seniors, and people with low incomes. It provides strategies for meeting those needs and prioritizes transportation services for funding and implementation.
- (10) Discretionary Award. An award in which the Federal awarding agency, in keeping with specific statutory authority that enables the agency to exercise judgement ("discretion"), selects the recipient and/or the amount of funding awarded through a competitive process or based on merit of proposals. A discretionary award may be selected on a non-competitive basis, as appropriate (2 CFR 200.1). A discretionary award may also be known as a competitive award.
- (11) Electronic Award Management System. A system that recipients and FTA use to manage grant applications, including the review, approval, and management of all grants. This system is used by applicants and recipients to submit financial status reports and milestone progress reports and to submit grant modification requests. This term includes FTA's Transit Award Management System (TrAMS) and any successor.
- (12) Equipment. Tangible property (including Information Technology (IT) systems) having a useful life of more than one year and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established by the recipient for financial statement purposes, or as defined in 2 CFR 200.1 (\$10,000). Equipment includes rolling stock, computing devices, IT systems, and all other such property used in the provision of public transit service.

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- (13) Facilities. Facilities mean all or any portion of a building or structure that is used to provide public transportation, including related roads, walks, and parking facilities. Additionally, facilities include fixed fueling infrastructure (e.g., charging stations, fueling islands, etc.).
- (14) Federal Interest. For purposes of reporting on real property or when used in connection with the acquisition, improvement, or disposition of real property, equipment, or supplies under a Federal award, Federal interest means the dollar amount that is the product of (1) the percentage of Federal participation in the total cost of the property, equipment, or supplies and (2) current fair market value of the property, improvements, or both to the extent the costs of acquiring or improving the property were included as project costs. In cases where the fair market value of property is not readily discernable, FTA may elect to establish the Federal interest by other means, such as straight-line depreciation.
- (15) Federally Recognized Indian Tribe. The governing body or a governmental agency of any federally recognized Indian Tribe or Alaska Native village, group, or community as identified by the U.S. Department of the Interior (DOI) Bureau of Indian Affairs (BIA). This list can be found on the [BIA website](#).
- (16) Fixed Guideway. A public transportation facility (1) using and occupying a separate right-of-way for the exclusive use of public transportation; (2) using rail; (3) using a fixed catenary system; (4) for a passenger ferry system; or (5) for a bus rapid transit system (49 U.S.C. 5302(8)).
- (17) 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. This includes the designee of the governor.
- (18) Grant or Grant Agreement. A legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302, 6304, (1) is used to enter into a relationship the principal purpose of which is to transfer anything of value to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. 6101(3)) and not to acquire property or services for the Federal awarding agency or pass-through entity's direct benefit or use; (2) is distinguished from a cooperative agreement in that it does not provide for substantial involvement of the Federal awarding agency in carrying out the activity contemplated by the Federal award; and (3) does not include an agreement that provides only (i) direct United States Government cash assistance to an individual, (ii) a subsidy, (iii) a loan, (iv) a loan guarantee, or (v) insurance (2 CFR 200.1).
- (19) 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.

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- (20) Incidental Use. The limited non-transit use of project property that does not conflict with the original authorized purpose of the project property or the recipient's ability to maintain satisfactory continuing control.
  - (21) Intercity Bus Service. Regularly scheduled bus service for the general public that operates with stops in rural areas over fixed routes connecting two or more urbanized areas not in close proximity, has the capacity for transporting baggage carried by passengers, and makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available. Intercity bus services funded under Section 5311(f) include those that support the connection between rural areas and the larger regional or national system of intercity bus service, meet the intercity travel needs of residents in rural areas, and support the infrastructure of the intercity bus network through planning, marketing assistance, and capital investment in facilities and equipment.
  - (22) Job Access and Reverse Commute (JARC) Project. A transportation project to finance planning, capital, and operating costs that support the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, including transportation projects that facilitate the provision of public transportation services from urbanized areas and rural areas to suburban employment locations.
  - (23) Joint Development. Public transportation improvements that enhance economic development or incorporate private investment and that otherwise meet the statutory terms found at 49 U.S.C. 5302(4)(G). Please also reference FTA Circular 7050.1C, "Federal Transit Administration Guidance on Joint Development."
  - (24) Local Governmental Authority. Includes (1) a political subdivision of a State; (2) an authority of at least one State or political subdivision of a State; (3) an Indian Tribe; or (4) a public corporation, board, or commission established under the laws of a State.
  - (25) Low-Income Individual. An individual whose family income is at or below 150 percent of the poverty line, as that term is defined in Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section, for a family of the size involved.
  - (26) Metropolitan Planning Organization (MPO). The policy board of an organization designated by agreement between the governor and local government to carry out the metropolitan planning process, including development of long-range transportation plans and Transportation Improvement Programs (TIP) for metropolitan planning areas (MPAs) of a State (49 U.S.C. 5303). The process and requirements of MPO designation are described at 23 CFR 450.310.
  - (27) Minimum Useful Life. The minimum acceptable period a capital asset purchased with FTA funds must be used in service prior to being replaced or removed from

service. The minimum useful life for rolling stock is calculated based on the date the vehicle is placed in revenue service. While the useful life of land is indefinite, real property improvements on land, such as construction, buildings, and other fixtures, may have a minimum useful life similar to personal property. The use of an asset beyond its minimum useful life does not extinguish the Federal interest in the asset or the obligation to use and dispose of property in compliance with Federal requirements.

- (28) Mobility Management. Mobility management is a capital project activity that consists of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a government entity, under 49 U.S.C. Chapter 53 (other than Section 5309) but excludes operation of public transportation services. Mobility management is a type of capital project.
- (29) National Environmental Policy Act (NEPA). NEPA (42 U.S.C. 4321 et seq.) established the Council on Environmental Quality (CEQ) and requires Federal agencies, when planning projects or issuing permits, to conduct environmental reviews to consider the potential impacts on the environment by certain actions. CEQ's NEPA regulations are codified at 40 CFR Parts 1500–1508. FTA, along with Federal Highway Administration (FHWA) and Federal Railroad Administration (FRA), jointly administers regulations to implement NEPA and supplement CEQ's regulations, which are codified at 23 CFR Part 771.
- (30) National Transit Database (NTD). The NTD is FTA's primary source for data on the transit industry. Most recipients of FTA funds are required to report to the NTD.
- (31) Overhaul. Overhaul means the systematic replacement or upgrade of revenue and non-revenue systems, the useful life of which is less than the useful life of the entire vehicle, in a programmed manner. Overhaul is performed as a planned or concentrated preventive maintenance activity and is intended to enable the vehicle to perform to the end of its original useful life. Compare with "Rebuild."
- (32) Pre-award Authority. Pre-award authority means authority FTA extends in writing to an anticipated recipient to incur otherwise allowable project costs before the effective date of a Federal award. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award and only with the written approval of FTA. Pre-award authority is announced in the annual Apportionment Notice, Notice of Funding Opportunity (NOFO), a Letter of No Prejudice, or other written notification. Failure to comply with applicable Federal requirements will render those project costs or, in certain cases, the project in its entirety, to be ineligible for FTA assistance.
- (33) Preventive Maintenance. Maintenance costs related to vehicles and non-vehicles. Specifically, preventive maintenance includes 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. Under 49 U.S.C. 5302, preventive maintenance is a type of capital project.

- (34) Program of Projects (POP). A list of projects to be funded in grant applications submitted to FTA by a Designated Recipient, State, or local government. The POP lists the recipients and subrecipients and indicates whether they are private non-profit agencies, governmental authorities, or private providers of transportation service. The POP also designates the areas served (including rural areas, as applicable) and identifies any Tribal entities. The POP also identifies intercity bus and Rural Transportation Assistance Program (RTAP) projects. In addition, the POP includes a brief description of the projects, the total project cost, the Federal share for each project, and the amount of funds used for program administration from the allowed percentage.
- (35) Public Transportation. Public Transportation means regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income. Public transportation generally includes but is not limited to transportation services provided by buses; heavy rail; light rail; commuter rail; fixed guideway; bus rapid transit; passenger ferryboats; trolleys; inclined railways; people movers; vans; streetcars; jitneys; and aerial tramways. Public transportation can be either fixed-route or demand-response service but excludes intercity passenger rail provided by Amtrak or other entities; intercity bus service; charter bus service; school bus service; sightseeing services; courtesy shuttle services provided by individual businesses; and intra-terminal or intra-facility shuttle services. The terms “transit” and “mass transportation” are used interchangeably with “public transportation.”
- (36) Rebuild. Rebuild is a capital activity associated with rolling stock that occurs at or near the end of a unit of rolling stock’s useful life and results in an extended useful life for the unit of rolling stock consistent with the extent of the rebuilding. Compare with “Overhaul.”
- (37) Recipient. An entity that is awarded funds directly from FTA to carry out an activity under a Federal program to support a specific project. In this circular, FTA uses the term “recipient” interchangeably with “Direct Recipient.” The term recipient does not include subrecipient.
- (38) Regional Transportation Planning Organization (RTPO). Designated organization to enhance the planning, coordination, and implementation of statewide strategic long-range transportation plans and transportation improvement programs, with emphasis on addressing the needs of non-metropolitan areas of the State.
- (39) Rehabilitate. Pertaining to capital assets other than land and intellectual property, rehabilitation means the restoration or reconstruction of an asset’s manufacture, assembly, or construction, other than market-standard maintenance, including a

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“rebuild” and “overhaul” as defined in this circular. While structural and visual restoration may be included within a rehabilitation activity, a rehabilitation must include restoration to systems that are integral to the functionality of the asset, such as mechanical systems and vehicle interiors.

- (40) Rural Area. Any area that has not been designated by the Secretary of Commerce in the most recent decennial census as an “urban area” with at least 50,000 people (49 U.S.C. 5302).
- (41) Senior. An individual who is 65 years of age or older (49 U.S.C. 5302).
- (42) Shared Use. Instances in which an entity separate from the recipient occupies part of a facility or shares the use of equipment (including rolling stock) and pays for its pro rata share of the construction, maintenance, and operations costs. Shared uses should be declared at the time of grant award to ensure the proper allocation and eligibility of costs in the grant. Shared use and incidental use are distinguishable.
- (43) Small Urbanized Areas. As used in the context of FTA formula programs, small urbanized areas (UZAs) mean UZAs with a population of at least 50,000 but less than 200,000.
- (44) State. A State of the United States; the District of Columbia; Puerto Rico; the Northern Mariana Islands; Guam; American Samoa; and the Virgin Islands (49 U.S.C. 5302). Under 49 U.S.C. 5339, the term “State” means a State of the United States, and the term “territory” means the District of Columbia; Puerto Rico; the Northern Mariana Islands; Guam; American Samoa; and the Virgin Islands. As this exception generally only impacts amounts apportioned under 49 U.S.C. 5339, the use of the term State in this circular will include those defined as Territories unless otherwise noted.
- (45) 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 (MTPs), and Transportation Improvement Programs (TIPs) and that is required for projects to be eligible for funding under Title 23 U.S.C. and 49 U.S.C. Chapter 53 (23 CFR 450.104).
- (46) Subrecipient. An entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity (recipient) to carry out part of a Federal award, excluding an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency (2 CFR 200.1).
- (47) Takedown. An amount or percentage subtracted from the total dollar amount appropriated for a Federal program before other apportionment or allocation of the funds. For example: The Tribal Transit Program (TTP) and Rural Transportation Assistance Program (RTAP) are takedowns from the total amount appropriated by Congress under the Formula Grants for Rural Areas Program (Section 5311).

- (48) Transit. The term “transit” means public transportation.
- (49) Transit Asset Management (TAM). The strategic and systematic practice of procuring; operating; inspecting; maintaining; rehabilitating; and replacing transit capital assets to manage their performance, risks, and costs over their life cycles for the purpose of providing safe, cost-effective, and reliable public transportation. See 49 CFR Part 625.
- (50) Transit Award Management System (TrAMS). A web-based electronic award management system used to apply for, administer, and manage FTA awards. TrAMS is FTA’s current award-making system. Transportation Electronic Award Management (TEAM) was FTA’s award-making system from 1998 to 2016.
- (51) Transit-oriented development (TOD). A compact, mixed-use development near transit facilities and high-quality walking environments. A TOD leverages transit infrastructure and can promote ridership, local economic development, affordable housing, and private sector investment.
- (52) 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 Plan (MTP), and required for projects to be eligible for funding under Title 23 U.S.C. and 49 U.S.C. Chapter 53 (23 CFR 450.104).
- (53) Urbanized Area (UZA). An area encompassing a population of not less than 50,000 people that has been defined and designated by the Secretary of Commerce in the most recent decennial census as an “urban area” (49 U.S.C. 5302).
- (54) Useful Life. The minimum acceptable period a capital asset purchased with FTA funds should be used in service. The minimum useful life for rolling stock is calculated based on the date the vehicle is placed in revenue service. Land does not have a useful life. However, real property improvements on land, such as buildings and other fixtures, usually have a useful life. Please see FTA C 5010.1 for information related to calculating useful life of FTA-funded assets.
- (55) Welfare Recipient. An individual who has received assistance under a State or Tribal program funded under part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.) at any time during the three-year period before the date on which the applicant applies for a grant under Sections 5307 or 5311.

b. Acronyms

Acronym	Full Name or Term
AASHTO	American Association of State Highway and Transportation Officials
ADA	Americans with Disabilities Act



<b>Acronym</b>	<b>Full Name or Term</b>
<b>ADHS</b>	Appalachian Development Highway System
<b>ADTAP</b>	Appalachian Development Public Transportation Assistance Program
<b>ARC</b>	Appalachian Region Commission
<b>BIA</b>	Bureau of Indian Affairs
<b>CAA</b>	Clean Air Act
<b>CCAM</b>	Coordinating Council on Access and Mobility
<b>CDBG</b>	Community Development Block Grant
<b>CE</b>	Categorical Exclusion
<b>CEQ</b>	Council on Environmental Quality
<b>CFR</b>	Code of Federal Regulations
<b>CMAQ</b>	Congestion Mitigation and Air Quality
<b>CNG</b>	Compressed Natural Gas
<b>CRP</b>	Carbon Reduction Program
<b>DBE</b>	Disadvantaged Business Enterprises
<b>DOI</b>	Department of the Interior
<b>DOL</b>	Department of Labor
<b>DOT</b>	Department of Transportation
<b>EA</b>	Environmental Assessment
<b>EEO</b>	Equal Employment Opportunity
<b>EIS</b>	Environmental Impact Statement
<b>EPA</b>	Environmental Protection Agency
<b>ER Program</b>	Emergency Relief Program
<b>FASB</b>	Financial Accounting Standards Board
<b>FAST Act</b>	Fixing America's Surface Transportation Act
<b>FEIS</b>	Final Environmental Impact Statement
<b>FEMA</b>	Federal Emergency Management Agency
<b>FFATA</b>	Federal Funding Accountability and Transparency Act of 2006 or Transparency Act, Public Law 109-282, as amended by Section 202(a) of Public Law 110-25, 31 U.S.C. 6101
<b>FFR</b>	Federal Financial Report
<b>FHWA</b>	Federal Highway Administration
<b>FLAP</b>	Federal Lands Access Program
<b>FLMA</b>	Federal Land Management Agency
<b>FLTP</b>	Federal Lands Transportation Program

<b>Acronym</b>	<b>Full Name or Term</b>
<b>FMCSA</b>	Federal Motor Carrier Safety Administration
<b>FONSI</b>	Finding of No Significant Impact
<b>FRA</b>	Federal Railroad Administration
<b>FTA</b>	Federal Transit Administration
<b>FY</b>	Fiscal Year
<b>GAAP</b>	Generally Accepted Accounting Principles
<b>GPRA</b>	Government Performance and Results Act
<b>HSIP</b>	Highway Safety Improvement Program
<b>HUD</b>	U.S. Department of Housing and Urban Development
<b>IIJA</b>	Infrastructure Investment and Jobs Act
<b>IT</b>	Information Technology
<b>ITS</b>	Intelligent Transportation Systems
<b>JARC</b>	Job Access and Reverse Commute
<b>LTAP</b>	Local Technical Assistance Program
<b>MAP-21</b>	The Moving Ahead for Progress in the 21st Century Act
<b>MPA</b>	Metropolitan Planning Area
<b>MPO</b>	Metropolitan Planning Organization
<b>MTAP</b>	Multistate Technical Assistance Program
<b>MTP</b>	Metropolitan Transportation Plan
<b>NEPA</b>	National Environmental Policy Act
<b>NHPP</b>	National Highway Performance Program
<b>NHS</b>	National Highway System
<b>NOFO</b>	Notice of Funding Opportunity
<b>NTD</b>	National Transit Database
<b>NTI</b>	National Transit Institute
<b>OTRB</b>	Over-the-Road Buses
<b>PDC</b>	Programming Decisions Committee
<b>POP</b>	Program of Projects
<b>PROTECT</b>	Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation Program
<b>PTASP</b>	Public Transportation Agency Safety Plan
<b>PTSCTP</b>	Public Transportation Safety Certification Training Program
<b>ROD</b>	Record of Decision

<b>Acronym</b>	<b>Full Name or Term</b>
<b>RTAP</b>	Rural Transportation Assistance Program
<b>RTPO</b>	Regional Transportation Planning Organization
<b>SGR</b>	State of Good Repair
<b>SMP</b>	State Management Plan
<b>SPWP</b>	Statewide Planning Work Program
<b>SSO</b>	State Safety Oversight
<b>STBG</b>	Surface Transportation Block Grant
<b>STP</b>	Surface Transportation Program
<b>STIP</b>	Statewide Transportation Improvement Program
<b>TA</b>	Transportation Alternatives
<b>TACL</b>	Transportation Technical Assistance Coordination Library
<b>TAM</b>	Transit Asset Management
<b>TANF</b>	Temporary Assistance for Needy Families
<b>TCRP</b>	Transit Cooperative Research Program
<b>TEAM</b>	Transportation Electronic Award Management
<b>TIP</b>	Transportation Improvement Program
<b>TMA</b>	Transportation Management Area
<b>TNC</b>	Transportation Network Companies
<b>TOD</b>	Transit-Oriented Development
<b>TrAMS</b>	Transit Award Management System
<b>TTAP</b>	Tribal Transportation Assistance Program
<b>TTP</b>	Tribal Transit Program
<b>UPWP</b>	Unified Planning Work Program
<b>U.S.C.</b>	United States Code
<b>USDA</b>	U.S. Department of Agriculture
<b>USDOT</b>	U.S. Department of Transportation
<b>UZA</b>	Urbanized Area

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## CHAPTER II

### PROGRAM OVERVIEW

1. STATUTORY AUTHORITY. The Formula Grants for Rural Areas Program, codified at 49 U.S.C. 5311 (Section 5311), and Grants for Buses and Bus Facilities Program, codified at U.S.C. 5339 (Section 5339), are authorized under the provisions set forth in the IIJA and previous authorizations.

Under the Section 5311 program, the Secretary may make grants to assist States and Indian Tribes in financing capital, operating, planning, and job access and reverse commute (JARC) projects associated with providing public transportation in rural areas. The Assistance Listing number for the Formula Grants for Rural Areas Program is 20.509.

Under the Section 5339 program, the Secretary may make grants to assist eligible recipients in financing capital projects to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities. Eligible recipients are either Designated Recipients that allocate funds to fixed-route bus operations or State or local governmental entities that operate fixed-route bus service. This circular applies more specifically to the National Distribution formula component of the Grants for Buses and Bus Facilities Program codified at 49 U.S.C. 5339(a), which can be used anywhere in the State. For detailed information on the Grants for Buses and Bus Facilities Competitive (Section 5339(b)) or Low-No Competitive (Section 5339(c)) Programs, please reference the specific Notice of Funding Opportunity (NOFO) for that year. The Assistance Listing number for the Grants for Buses and Bus Facilities Program is 20.526.

A State may use up to 10 percent of its Section 5311 program funds to administer the program and provide technical assistance to subrecipients. Technical assistance includes project planning, program and management development, public transportation coordination activities, and research the State considers appropriate to promote effective delivery of public transportation in rural areas. Planning activities directed specifically at the needs of rural areas in the State are an eligible expense under Section 5311 and shall be in addition to funding awarded to a State under 49 U.S.C. 5305, Planning Programs. There is no limitation on use of Section 5311 funds for operating assistance; however, the State must use at least 15 percent of its annual apportionment to support intercity bus service, unless the governor certifies, after consultation with affected intercity bus providers, that the intercity bus needs of the State are adequately being met.

A State may only use Section 5339 funding for project administration if a State Department of Transportation (DOT) is performing project administration activities that are specific to a

Section 5339 capital project. General Program or State Administration expenses are not allowed under Section 5339.

Each State prepares and submits to FTA a Program of Projects (POP), including projects funded through both Sections 5311 and 5339. A State's POP must provide for fair and equitable distribution of funds within the State, including Indian reservations, and provide for maximum feasible coordination with transportation services assisted by other Federal sources.

A State may pass through its Section 5311 program funds to subrecipients that are State or local governmental authorities, nonprofit organizations, operators of public transportation services, or intercity bus operators. A State may pass through its Section 5339 program funds to subrecipients that are State or local governmental authorities or private nonprofit organizations engaged in public transportation.

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

- a. Rural Transportation Assistance Program (RTAP). Section 5311(b)(3) provides funding for the RTAP as a two percent takedown from the amount authorized and appropriated for Section 5311. From the amounts made available for RTAP, the Secretary may use up to 15 percent to carry out competitively selected projects of a national scope, with the remaining balance allocated to the States. States can use RTAP funds for technical assistance, training, research, and related support activities. See Chapter X, "Rural Transportation Assistance Program," for more information on this program.
- b. Appalachian Development Public Transportation Assistance Program (ADTAP). Section 5311(c)(3) authorizes and provides funding for ADTAP. This program is funded with a three percent takedown from the amount authorized and appropriated for Section 5311 to provide additional funding to States in the Appalachian region of the United States.

The formula is established based on Section 9.5(b) of the Appalachian Regional Commission Code (subtitle 40). Funds may be used for public transportation activities consistent with the formula grants for rural areas program. The funds are apportioned to the following States: Alabama; Georgia; Kentucky; Maryland; Mississippi; New York; North Carolina; Ohio; Pennsylvania; South Carolina; Tennessee; Virginia; and West Virginia. See Chapter VIII, "Appalachian Development Public Transportation Assistance Program," for more information on this program.

States that are eligible for ADTAP may use amounts that cannot be used for operating expenses for a highway project if the governor approves the use in writing after

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appropriate notice and an opportunity for comment and appeal are provided to affected public transportation providers and the governor has determined that the local transit needs are being addressed. In order for FTA to consider the transfer, a State must provide documentation to the FTA Regional Office that includes the following:

- A description of the consultation efforts used to establish stakeholder involvement (i.e., State, local transit operators, and local Metropolitan Planning Organization (MPO)); and
- A certification that the funds cannot be used for operating expenses.

Upon receipt, FTA will review the request and, if the request is approved, will transfer the funds consistent with FTA's transfer process. Please see Chapter VIII of this circular regarding transfer provisions.

- c. Tribal Transit. The TTP is authorized at Section 5311(c)(2) and includes a competitive and a formula program. The TTP is funded as a five percent takedown from the amount authorized and appropriated for Section 5311, with 20 percent of the funds available for competitive projects and 80 percent of funds distributed by formula. There is a three-tier structure for formula funds distribution. Tribal Transit funds should not replace or reduce funds that Indian Tribes receive from States through the Section 5311 program. Please see Chapter XI for more information on this program.

## 2. PROGRAM GOALS.

- a. Formula Grants for Rural Areas (Section 5311). Pursuant to 49 U.S.C. 5311, FTA apportions or awards funds for planning, public transportation capital projects, operating costs, job access reverse commute projects, and the acquisition of public transportation service to States and Indian Tribes located in rural areas. The Section 5311 program supports both the maintenance of existing public transportation services and the expansion of those services through the following program goals:
- (1) Enhancing access to health care, shopping, education, employment, public services, and recreation in rural areas;
  - (2) Assisting in the maintenance, development, improvement, and use of public transportation systems in rural areas;
  - (3) Encouraging and facilitating the most efficient use of all transportation funds used to provide passenger transportation in rural areas through the coordination of programs and services;
  - (4) Providing financial assistance to help carry out national goals related to mobility for all, including seniors, individuals with disabilities, and low-income individuals;

- (5) Increasing availability of transportation options through investments in intercity bus services;
- (6) Assisting in the development and support of intercity bus transportation;
- (7) Encouraging mobility management, employment-related transportation alternatives, joint development practices, and transit-oriented development (TOD); and
- (8) Providing for the participation of private transportation providers in rural public transportation.

b. Formula Grants for Buses and Bus Facilities Program (Section 5339(a)). Pursuant to 49 U.S.C. 5339(a), FTA apportions funds under Section 5339(a) to Designated Recipients in large urbanized areas (UZA) and States for small UZAs and rural areas for the purpose of financing capital bus and bus-related projects that will support the continuation and expansion of public transportation services in the United States.

### 3. PROGRAM MEASURES.

The GPRA Modernization Act of 2010, Pub. L. 111–352, requires FTA and other Federal agencies to “establish performance goals to define the level of performance to be achieved in the agency annual performance plan” and to “establish a balanced set of performance indicators to be used in measuring or assessing progress toward each performance goal” included in the agency performance plan. To fulfill FTA’s obligations under the GPRA Modernization Act, FTA has established performance goals relevant to transit grant programs under 49 U.S.C. Section 5339. These performance goals pertain to improving transit infrastructure (State of Good Repair), and to increasing transit ridership and service. FTA has established performance measures to track progress toward these performance goals and report on results. The measures are targeted to capture overarching program information as part of the annual report that each recipient submits to FTA. FTA also captures information on recipients’ progress towards these performance measures through reporting to the National Transit Database (NTD) at a system level, rather than on a grant-by-grant basis.

Additional information on FTA’s program measures and performance goals is published annually in the Department of Transportation’s Annual Performance Plan and Annual Performance Report, which published in conjunction with DOT’s annual budget.

a. Recipient Measures and Reporting: Recipients develop performance measures for transportation projects through the planning process described in Chapter V.

FTA reports on program measures in conjunction with GPRA. For the two formula grant programs covered by this circular (Section 5311 and 5339(a)), the following indicators are

targeted to capture overarching program information as part of the Annual Report that each recipient submits to FTA.

<b>Program</b>	<b>Assistance Listing</b>	<b>Performance Measure</b>	<b>Data Source</b>
Formula Grants for Rural Areas Program (Section 5311)	20.509	Median transit ridership in rural areas by State	National Transit Database
Formula Grants for Rural Areas Program (Section 5311)	20.509	Percentage of transit revenue vehicles in state of good repair	National Transit Database
Buses and Bus Facilities Formula, Competitive, and Low or No Emissions Programs (Section 5339)	20.526	(SGR) backlog funded by Section 5311	National Transit Database
Formula Grants for Rural Areas Program (Section 5311)	20.509	Percentage of transit buildings and facilities in SGR backlog located in rural areas	National Transit Database
Buses and Bus Facilities Formula, Competitive, and Low or No Emissions Programs (Section 5339)	20.526		National Transit Database

FTA captures recipients’ progress toward the measures identified above through reporting to the National Transit Database (NTD) at a system level, rather than on a grant-by-grant basis.

**4. STATE ROLE IN PROGRAM ADMINISTRATION.**

To the extent permitted by law, FTA gives the States maximum discretion in designing and managing the Section 5311 and Section 5339 programs to meet their rural public transportation needs. Where possible, FTA defers to a State’s development of program standards, criteria, procedures, and policies to provide the State with the flexibility it needs to standardize its management of FTA assistance and related State programs.

Title 2 CFR Part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (also known as “Uniform Guidance”) and the USDOT’s adoption and deviations under 2 CFR Part 1200 apply to States. States may have uniform



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requirements for their subrecipients, both private nonprofit agencies and governmental authorities, as long as such requirements are not inconsistent with 2 CFR Part 200.

- a. Role of the State Agency. The governor designates a State agency that will have the principal authority and responsibility for administering the Section 5311 and Section 5339 programs. Specifically, the role of the State agency is to:
  - (1) Document the State's procedures in a State Management Plan (SMP);
  - (2) Notify eligible local entities of the availability of the program;
  - (3) Plan for future transportation needs and ensure integration and coordination among diverse transportation modes and providers;
  - (4) Ensure an accurate and complete list of projects are included in the Statewide Transportation Improvement Program (STIP);
  - (5) Solicit applications;
  - (6) Develop project selection criteria;
  - (7) Review and select projects for approval;
  - (8) Forward an annual POP and grant application to FTA;
  - (9) Certify eligibility of applicants and project activities;
  - (10) Ensure compliance with Federal requirements by all subrecipients;
  - (11) Monitor local project activity;
  - (12) Oversee project audit and closeout; and
  - (13) File an NTD report each year for itself and each subrecipient.
- b. State Administration of Projects. A State agency may carry out a project directly. The State must exercise adequate oversight to ensure that only eligible activities receive Federal assistance and that subrecipients meet Federal requirements. In administering the project, the State must:
  - (1) Provide for appropriate technical assistance for rural areas;
  - (2) Ensure that there is a fair and equitable distribution of program funds within the State, including funds to Indian Tribes;

- (3) Ensure a process whereby private transit operators, including private providers of public transportation services, are offered an opportunity to participate, through service agreements with operators of public transportation services or as subrecipients;
- (4) Expend funds for the support of intercity bus transportation to the extent required by law; and
- (5) Provide for maximum feasible coordination of public transportation services assisted by FTA with transportation services assisted by other Federal programs.

5. FTA ROLE IN PROGRAM ADMINISTRATION.

a. FTA Headquarters serves a broad, program level role in the administration of the program. FTA Headquarters:

- (1) Provides overall policy and program guidance for the Section 5311 and Section 5339 programs;
- (2) Apportions funds annually to the States and Indian Tribes;
- (3) Develops and implements financial management procedures;
- (4) Initiates and manages program support activities; and
- (5) Conducts national program reviews and evaluations.

b. FTA Regional Offices have the day-to-day responsibility for administration of the program. The FTA Regional Office:

- (1) Reviews and approves State grant applications;
- (2) Obligates funds, manages awards, and oversees the State's implementation of the annual program, including revisions to the POP;
- (3) Receives State certifications;
- (4) Reviews and approves SMPs;
- (5) Provides technical assistance, advice, and guidance to the State and other recipients as needed; and
- (6) Performs State Management Reviews every three years or as circumstances warrant.

- c. FTA conducts State Management Reviews (SMR). The reviews examine the State's management procedures based on the approved SMP. In each area reviewed, a finding is made of compliance or deficiency with corrective action to be taken within a scheduled time frame. SMRs are conducted in accordance with the latest CORTAP manual. FTA places emphasis on providing the information needed to help the State come into compliance with Federal requirements in all areas. FTA periodically conducts State Management Review workshops to assist the States in understanding the requirements. If a particular problem area is observed, a more detailed oversight review may be scheduled in such areas as procurement; financial management; drug and alcohol testing; Americans with Disabilities Act of 1990 (ADA); Title VI of the Civil Rights Act of 1964; or any other area.
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.

Recipients may be subject to a triennial, State management, or other regularly scheduled comprehensive review to evaluate their performance. FTA must ensure that the recipient is carrying out its program in compliance with Federal statutory and administrative requirements. These comprehensive reviews of recipient performance allow FTA to determine if the recipient is complying with the certifications it has made.

FTA may also conduct/determine technical capability and capacity; procurement; financial management; civil rights; drug and alcohol; safety; security; and other compliance reviews and audits, in addition to the Triennial or State Management 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 awards until the recipient comes into compliance.

The Single Audit Act, as amended (31 U.S.C. 7501 et seq.), implemented under 2 CFR Part 200 subpart F, also requires recipients of Federal awards resulting in expenditures of \$1,000,000 or more to have independent audits conducted annually.

7. RELATIONSHIP TO OTHER PROGRAMS. Other public transportation-related Federal programs may provide support for Section 5311 and Section 5339 projects that enhance the effectiveness of these programs.
  - a. Urbanized Area Formula Assistance Program (Section 5307). Title 49 U.S.C. 5307 provides funding for capital assistance, planning, and operating assistance for public transportation in urbanized areas (UZAs). For small UZAs with populations less than 200,000, FTA apportions funds to the governor or the governor's designee(s) for use in

small urbanized areas. Section 5307(g) deems the Virgin Islands a small UZA for the purposes of Section 5307. Hence, FTA apportions Section 5307 funds to the Virgin Islands in lieu of Section 5311 funds.

In large UZAs with populations of 200,000 or more, FTA makes funds available to the Designated Recipient(s) for capital and planning assistance.

A number of UZA recipients of Section 5307 funds also receive Section 5311 funds to carry out projects in outlying rural areas. The governor has the authority to transfer Section 5307 funds apportioned to the State for small UZAs to supplement the State's Section 5311 apportionment. Transferred funds retain their local share requirements under Section 5307 (i.e., sliding scale does not apply). The governor may also transfer Section 5311 funds to supplement the State's apportionment of Section 5307 funds for small UZAs. These transfer provisions give governors greater flexibility to allocate formula transit funds in both urbanized and rural areas to enable States to fully utilize available funds.

Guidance for the Section 5307 Urbanized Area Formula Funding Program is available in the new FTA combined urban circular, Circular 9050.1A, "Urbanized Areas Formula Grant Programs Guidance."

- b. Grants for Buses and Bus Facilities Competitive Program (Section 5339(b)). 49 U.S.C. 5339(b) authorizes a Grants for Buses and Bus Facilities Competitive Program to assist eligible applicants in the financing of buses and bus facilities capital projects, including replacing, rehabilitating, purchasing, or leasing buses or related equipment and rehabilitating, purchasing, constructing, or leasing bus-related facilities. Of the amounts made available under Section 5339(b) in a fiscal year, at least 15 percent must be distributed to projects in rural areas unless eligible applications are insufficient to meet that threshold.

Grants made to recipients in rural areas under Section 5339(b) are subject to the requirements of Section 5311. Further, to the extent practicable, eligible recipients should seek to utilize the procurement tools authorized under Section 3019 of the Fixing America's Surface Transportation Act (FAST Act) (49 U.S.C. 5325 note; Public Law 114-94). More information on Section 5339(b) requirements, application procedures, and evaluation criteria is available in the respective fiscal year's NOFO for the program as well as corresponding Implementation Guidance issued at project selection.

- c. Low or No Emissions Vehicle Competitive Program (Section 5339(c)). 49 U.S.C. 5339(c) authorizes the Low or No Emission Vehicle Program (Low-No Program) to assist eligible applicants in the purchase or lease of zero emission and low emission transit buses, including acquisition, construction, and leasing of required supporting facilities,

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such as recharging, refueling, and maintenance facilities. Section 5339(c) provides funding to States (including territories and Washington, DC), local governmental authorities, and Tribal governments. Awards made to recipients in rural areas under Section 5339(c) are subject to the requirements of Section 5311. More information on Section 5339(c) requirements, application procedures, and evaluation criteria is available in the respective fiscal year's NOFO for the program along with corresponding Implementation Guidance issued at project selection.

8. Ferry Service for Rural Communities Program. Section 71103 of the IIJA establishes a Rural Ferry Program that makes Federal resources available to States to ensure basic essential ferry service is provided to rural areas. Funding is allocated to projects on a competitive basis from proposals submitted to FTA in response to Notices of Funding Opportunities. Eligible recipients are States and territories that operated a regular ferry schedule at any time during the five-year period ending March 1, 2020, and served no fewer than two rural areas located more than 50 sailing miles apart. Eligible activities are capital, planning, and operating assistance for ferry service. An eligible service that receives funds from a State under this program shall not be attributed to a UZA for purposes of apportioning funds under 49 U.S.C. Chapter 53 and shall not receive funds apportioned under sections 49 U.S.C. 5336 or 5337 in the same fiscal year. Additional details will be available in a NOFO and the corresponding Implementation Guidance issued at project selection.
  - a. Public Transportation Emergency Relief Program (Section 5324). The Section 5324 Public Transportation Emergency Relief Program (ER Program) allows FTA to make awards to public transportation agencies that experience serious damage as the result of an emergency, such as a flood, hurricane, tornado, tsunami, or other external cause that affects a wide area, for which the governor of a State or the President has declared an emergency or major disaster.

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

FTA has implemented this program in coordination and cooperation with the Federal Emergency Management Agency (FEMA) and will work with FEMA in the aftermath of any disaster to provide support and assistance for any affected agency's recovery efforts. Awards under this program or those made under Sections 5307 or 5311 to address a declared emergency are subject to the terms and conditions that FTA determines are

necessary. FTA will not provide funding for any expenses that are reimbursed by FEMA or insurance. This program is implemented by regulation under 49 CFR Part 602.

- b. Transit-Oriented Development (TOD) Planning Pilot Program. The TOD Planning Pilot Program is an FTA program established by Section 20005(b) of the Moving Ahead for Progress in the 21st Century Act (MAP-21). This program provides funding to advance planning efforts that support TOD associated with new fixed guideway and core capacity improvement projects. TOD focuses growth around transit stations to promote ridership, develop affordable housing near transit, revitalize downtown centers and neighborhoods, and encourage local economic development. In addition, funds from Section 5307 and Section 5311 may be used to support planning projects that receive funding under this program or may be used for joint development capital projects relating to transit-oriented developments.
- c. Transportation Alternatives Set-Aside (FHWA – 23 U.S.C. 133(h)). The Transportation Alternatives (TA) Set-Aside from the Surface Transportation Block Grant (STBG) Program is administered by the Federal Highway Administration (FHWA). It provides funding for a variety of generally smaller-scale transportation projects, such as pedestrian and bicycle facilities; construction of turnouts, overlooks, and viewing areas; community improvements such as historic preservation and vegetation management; environmental mitigation related to stormwater and habitat connectivity; recreational trails; safe routes to school projects; and vulnerable road user safety assessments.

The TA Set-Aside funds are a 10 percent set-aside of STBG funds and are apportioned to the States by formula (see the [FHWA's guidance](#)).

After a set-aside for the Recreational Trails Program, 59 percent of the funds are suballocated to areas based on their relative share of the total State population, including specific suballocations to urbanized areas with populations of 200,000 or more. States and MPOs representing urbanized areas with populations of 200,000 or more must carry out competitive project selection processes to solicit and select eligible projects that are submitted by eligible entities (23 U.S.C. 133(h)(4)). The competitive process must include prioritization of project location and impact in high-need areas, such as low-income, transit-dependent, rural, or other areas, as defined by the State (23 U.S.C. 133(h)(4)(D)). States and regional transportation planning agencies are encouraged to use qualified youth service and conservation corps to perform appropriate projects. For more information, contact the [State Transportation Alternatives Manager](#).

- d. Federal Lands Access Program (FHWA – 23 U.S.C. 204). The Federal Lands Access Program (FLAP) is a competitive program administered by FHWA. The intent of the program is to provide funding to States, Tribes, and local governments for projects that improve Federal land transportation facilities that are located on, are adjacent to, or

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provide access to Federal lands and for which title or maintenance responsibility is vested in the State, Tribal, or local government.

The FLAP provides funding to supplement State and local resources for public roads, transit systems, and other transportation facilities, with an emphasis on access to high-use Federal recreation sites or Federal economic generators. The program is designed to provide flexibility for a wide range of transportation projects in the 50 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 POP.

The PDC in each State is comprised of a representative from FHWA, the State DOT, and an appropriate political subdivision of the State. The PDC cooperates with each applicable Federal Land Management Agency (FLMA) in its State before any joint discussion or final programming decision is made. Eligible transit projects are those that support the intent of the FLAP and may include planning projects, the operation and maintenance of transit facilities, and other projects eligible for assistance under 23 U.S.C.

The FLAP complements the FHWA Federal Lands Transportation Program (FLTP), which provides funding for transportation facilities owned or maintained by FLMAs. For additional information about the FLAP, visit the [FLAP web page](#).

- e. Federal Highway Administration “Flexible” Programs. Certain FHWA transportation programs allow recipients to transfer funds to FTA for public transportation and intercity bus projects that are eligible under the FHWA program and under Section 5311 or Section 5339. When such “flexible” fund transfers are made for eligible projects, FTA will administer these funds in a separate Section 5311 or Section 5339 award. Guidance on the eligibility of these funds for transfer and associated requirements is provided in Chapter V of this circular in the section “Availability of FHWA ‘Flexible’ Funds for Transit Projects.”

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## CHAPTER III

### GENERAL PROGRAM INFORMATION

#### 1. ELIGIBLE RECIPIENTS.

##### a. Eligible Recipients and Subrecipients.

- (1) Section 5311. Eligible recipients for Section 5311 funds include States and Indian Tribes that receive an FTA award directly from the Federal government. Eligible subrecipients for Section 5311 funds include States and local governmental authorities, nonprofit organizations, and operators of public transportation or intercity bus service that receive FTA grant funds indirectly through a recipient. Regional development organizations may be eligible as a local governmental authority. For questions, please contact the applicable FTA Regional Office.

In the case of intercity bus projects, private for-profit operators of transit services or intercity bus services may participate in the Section 5311 program as third-party contractors for recipients or as subrecipients. State agencies may limit subrecipient eligibility requirements to comply with State laws or to further program goals.

Recipients and subrecipients of Section 5311 funds must serve rural areas, defined as any area outside of a UZA, as defined in this circular, with a population of less than 50,000. A UZA consists of a core area and the surrounding densely populated area with a total population of 50,000 or more, with boundaries fixed by the Bureau of the Census. Areas not within an urbanized area with a population of 50,000 or more as of the most recent decennial census are eligible for Section 5311 funding even if they are included within the metropolitan area planning boundary, which includes the surrounding area expected to be urbanized within 20 years and/or the air quality nonattainment boundary.

- (2) Section 5339. Eligible recipients for Section 5339 funds include designated recipients that allocate funds to fixed-route bus operators as well as States and local governmental authorities that operate fixed-route service. Eligible subrecipients for Section 5339 funds include local governmental authorities and private nonprofit organizations engaged in public transportation.

Recipients and subrecipients of Section 5339 National Distribution funds may serve any area in the State, including rural areas, or the State may transfer the National Distribution funds to supplement amounts made available in Sections 5311 or 5307.



- (3) Tribes as Direct Recipients. Under 49 U.S.C. 5311, a federally recognized Indian Tribe is an eligible Direct Recipient. This option is available to Tribes in recognition of their status as sovereign nations.

A Tribe providing public transportation services in a rural area that is eligible to receive State-administered Section 5311 funding may follow the process to apply for the funds defined in the State's SMP. If the Tribe is selected to receive State-administered Section 5311 funding, the Tribe then has the option to become a Direct Recipient of the State allocated funding and receive it directly through FTA or be a subrecipient of the State. After the State has notified a Tribe of the selection of its project(s), the Tribe must notify the State of its intent to apply directly to FTA for these funds. Both the Tribe and the State DOT must agree to the decision for the Tribe to receive the State allocated funding directly from FTA. When an agreement has been reached, the State will notify FTA by a letter of the project(s) and amount of funds that it allocated to the Tribe from the State's Section 5311 apportionment. The requirements for State allocated funds are more comprehensive as compared to requirements that apply under the TTP. These are two separate funding sources and though a Tribe is eligible to receive both types of funding, the requirements are not the same. Tribes that receive State allocated funding are subject to the additional requirements.

As a Direct Recipient of Section 5311 funds not derived from the Section 5311(c)(2) TTP, the Indian Tribe must comply with all management requirements of the Section 5311 program and with all terms and conditions of FTA's standard grant agreements. The special terms and conditions that FTA developed for Tribes receiving funding under the TTP are applicable only to that program. Please see more information in Chapter XI.

Similarly, a Tribe that operates fixed-route service is an eligible recipient of Section 5339 funds. If Section 5339 funds are allocated to a Tribe by a State for an eligible project, the Tribe has the option to receive the funds directly from FTA as a Direct Recipient or from the State as a subrecipient.

- b. Eligible Service and Service Areas. States can use Section 5311 funds for public transportation projects, JARC projects, and intercity bus transportation projects in rural areas. States may allocate Section 5339 National Distribution funds to fixed-route operators in any area of the State, including rural areas, or may transfer funds to Tribes.

Section 5311 projects may include public transportation to or from rural areas. The service area may include destinations across a State line. Operators of interstate service are required to comply with the Federal Motor Carrier Safety Administration (FMCSA) regulations.

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

- c. Incidental Use. The purpose of Section 5311 and Section 5339 assistance is the provision of public transportation services, and FTA encourages maximum feasible coordination with other rural transportation services, including intercity bus service. FTA policy on project property resource sharing allows project property to be used for purposes other than that specified in the original award on an incidental basis. A rural transit provider may use a Section 5311 or Section 5339 vehicle for non-passenger transportation on an occasional or regular basis, such as package delivery or the provision of closed-door service to a human services agency, if this incidental use does not result in a reduction of service quality or availability of public transportation service. The incidental use policy does not preclude the recipient's use of Section 5311 assistance to support the transportation of passengers by a private provider that is not primarily engaged in passenger transportation. For example, a recipient may use Section 5311 funds to support a contract mail carrier that incidentally provides intercity passenger transportation, if the carrier has appropriate regulatory authority to carry passengers. Section 5311 funds may only be used to subsidize the passenger transportation services of the mail carrier.

A rural transit provider may design its Section 5311- and Section 5339-funded services to maximize use by members of the general public who are transportation disadvantaged. Transportation-disadvantaged people include seniors, people with disabilities, and low-income individuals. Transit service providers receiving assistance under Section 5310 (Enhanced Mobility of Seniors and Individuals with Disabilities) or Section 5311 may coordinate and assist in providing meal delivery service for homebound people on a regular basis, if the meal delivery services do not conflict with the provision of transit services or result in a reduction of service to transit passengers. FTA expects that a nutrition program will pay the operating costs attributable to meal delivery. Capital assistance from Sections 5311 and 5339 may not be used to purchase vehicles used solely for meal delivery or to purchase specialized equipment, such as racks or heating or refrigeration units, related to meal delivery.

Additional information on incidental use is available in Chapter IV of FTA Circular 5010.1.

2. PRIVATE TAXI OPERATORS AND TRANSPORTATION NETWORK COMPANIES AS SUBRECIPIENTS.

Private operators of public transportation are eligible subrecipients of Section 5311 funds. The definition of “public transportation” includes “shared-ride surface transportation services.” Private taxi companies and transportation network companies (TNC) that provide shared-ride on-demand service to the general public on a regular basis are operators of public transportation and therefore eligible subrecipients. “Shared-ride” means two or more passengers in the same vehicle who are otherwise not traveling together. Similar to general public Demand Response and ADA complementary paratransit service, every trip does not have to be shared-ride in order for a taxi company or TNC to be considered a shared-ride operator, but the general nature of the service must include shared rides.

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

As subrecipients, private taxi operators and TNCs are subject to the same Federal requirements as the public entity making the subgrant. This includes ensuring that service for persons with disabilities, particularly wheelchair users, is equivalent to that available to persons without disabilities. Recipients should confirm whether additional requirements apply under the program access requirements applicable to public entities under regulations issued under Title II of the ADA by the U.S. Department of Justice.

Taxi companies and TNCs that provide only exclusive-ride service are not eligible subrecipients; however, they may participate in the Section 5311 program as contractors for JARC projects. Exclusive-ride taxi companies may receive Section 5311 funds to purchase accessible taxis under contract with a State, Designated Recipient, or eligible subrecipient, such as a local government or nonprofit organization. The taxi company may hold title to the accessible vehicle(s) as long as the agreement between the State, Designated Recipient, or subrecipient and the taxi company is sufficient to establish satisfactory continuing control. Acceptable means of establishing satisfactory continuing control could include a State, Designated Recipient, or subrecipient’s lien on the vehicle or contract provisions that require:

- The accessible taxi to be used to provide transportation for people with disabilities utilizing the service for JARC purposes; and

- The vehicle may not be removed from service or disposed of prior to the end of its useful life without the express written consent of the FTA recipient or subrecipient.

3. APPORTIONMENT OF PROGRAM FUNDS.

a. Designated State Agency. The governor of each State or an official designee must designate a State agency with the requisite legal, financial, and staffing capabilities to receive and administer Federal funds under the Section 5311 and 5339 programs. The designated State agency applies for Federal assistance on its own behalf or on behalf of subrecipients and is the recipient for all Section 5311 and 5339 National Distribution funds within the State of that designated State agency. The State agency may be the recipient on behalf of Indian Tribes that are subrecipients, or a federally recognized Tribe may elect to apply to FTA as a recipient of 5311 funds after a State allocates the funds to that Tribe. Existing designations remain in effect until the FTA Regional Administrator receives official notice of redesignation.

b. Apportionment of Funds.

- (1) Section 5311. FTA apportions Section 5311 funds to the States by a statutory formula using the latest available U.S. decennial census data. The majority of rural formula funds (83.15 percent) are apportioned based on land area and population factors. In this first tier, no State may receive more than five percent of the amount apportioned on the basis of land area. The remaining rural formula funds (16.85 percent) are apportioned based on land area, vehicle revenue miles, and low-income individuals factors. The low-income individuals factor reflects that JARC projects are eligible under the program. In this second tier, no State may receive more than five percent of the amount apportioned on the basis of land area or more than five percent of the amounts apportioned for vehicle revenue miles.

In addition to funds made available under Section 5311, FTA adds amounts apportioned based on rural population according to the growing States formula factors of 49 U.S.C. 5340 to the amounts apportioned to the States under the Section 5311 formula. Before FTA apportions Section 5311 funds to the States, FTA subtracts funding from the total available amounts for the ADTAP, the TTP, the RTAP, and FTA oversight activities.

- (2) Section 5339 National Distribution. FTA apportions Section 5339 National Distribution funds to States and territories per the statutory formula at 49 U.S.C. 5339(a)(5). Each State is apportioned \$4 million, and each territory is apportioned \$1 million in each fiscal year. Of the remaining funds made available that are not part of the National Distribution, 86.65 percent is allocated to Designated

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Recipients for use in UZAs with populations of 200,000 or more, and 13.35 percent is allocated to States for use in UZAs of less than 200,000 in population.

- c. Funds Availability. Section 5311 funds remain available to the States for obligation for three Federal fiscal years, beginning with the year of apportionment plus two additional years. For example, funds apportioned to a State in FY 2024 are available until September 30, 2026.

Section 5339 funds remain available to the States for obligation for four Federal fiscal years, beginning with the year of apportionment plus three additional years. For example, funds apportioned to a State in FY 2024 are available until September 30, 2027.

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

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

Any funds remaining unobligated at the end of the period of availability are added to the next year's program apportionment and are reapportioned among all States.

- d. Transfer of Apportionments. Funds may be transferred to certain other programs to balance State transit and highway needs or to streamline grant administration. The transfer of funds from other programs to Section 5311 does not increase the amount of funds required to be expended for intercity bus. The transfer of funds must be reflected in the Statewide Transportation Improvement Program (STIP) before they can be transferred.
- (1) Notification of Transfer. The State initiates the transfer of FTA funds by notifying the FTA Regional Administrator of its intent to transfer funds. Notices to transfer funds to the State's Section 5311 apportionment should include the following: (1) information on the entity to which the funds were originally allocated; (2) the amount of funds to be transferred, the fiscal year in which they were apportioned, and the program section(s) (e.g., Section 5307); and (3) contact information if questions arise that the State must address before FTA can process the transfer. A notice of transfer of funds must also include the specific rural projects to which the State will apply the transferred funds.

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- (2) Transfer of Section 5339 National Distribution Funds to Section 5307 or 5311. A State may transfer any part of its Section 5339 National Distribution apportionment to Section 5307 funds in large or small UZAs or to Section 5311 funds in rural areas. Section 5339 National Distribution funds should only be transferred to Section 5311 funds in order to make grant administration more efficient. After transfer, funds formerly apportioned under the Section 5339 program may only be used for purposes eligible under Section 5339.
- (3) Transfer of Section 5307 Funds to Section 5311. The governor may transfer any amount of the State's Section 5307 apportionment for small UZAs under 200,000 in population to supplement the State's Section 5311 program. The governor may make such transfers only after consultation with responsible local officials and publicly owned operators of public transportation services in each area to which the funding was originally apportioned. The governor may transfer funds without consultation during the last 90 days the funds are available for obligation for use anywhere in the State, including large UZAs.

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

In addition, the period of availability of the transferred funds remains that of the Section 5307 apportionment (six-year period of availability), which is three years longer than the same year's Section 5311 apportionment (three-year period of availability). The transfer of Section 5307 funds to Section 5311 does not increase the amount of Section 5311 funds that the State may use for administration, planning, and technical assistance with no local share.

- (4) Transfer of Section 5311 Funds to Section 5307. The governor may transfer Section 5311 funds to supplement Section 5307 funds that FTA apportioned to the State for UZAs with populations less than 200,000 without consultation. The governor may also transfer funds without consultation within the last 90 days in which the funds are available for obligation for use anywhere in the State, including large UZAs. The period of availability of the transferred funds is that of the Section 5311 apportionment (year of apportionment plus two years, or three years).
- (5) Limitations. Transferred funds are subject to any limitations applicable to the original apportionment of the funds, not of the receiving program. For example, transfer of part of a State's Section 5311 apportionment to small UZAs does not

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reduce the amount of the Section 5311 apportionment subject to the intercity bus requirement. Transfer of part of a State's Section 5311 apportionment to small UZAs does not reduce the amount of Section 5311 funds the State may use to administer its Section 5311 program (i.e., 10 percent of the Section 5311 apportionment). The State may not use the sliding scale match for transferred Section 5311 funds obligated in a Section 5307 grant. The period of availability of the transferred funds is that of the Section 5311 apportionment (three years).

- (6) Transfer of FHWA Flexible Funds. A State may transfer STBG funds, Congestion Mitigation and Air Quality (CMAQ) funds, and certain other flexible funds from FHWA to FTA to use for transit projects, transportation planning, and intercity bus projects. States, in cooperation with affected local officials, select projects in rural areas with populations less than 50,000 (excluding projects on the National Highway System (NHS) and projects funded with bridge and interstate maintenance funds).

With limited exceptions, FTA treats STBG, CMAQ, or other flexible funds transferred to Section 5311 or Section 5339 under the program requirements applicable to Section 5311 or Section 5339. However, pursuant to 23 U.S.C. 104(f)(1)(B) and 49 U.S.C. 5334(i)(2), flexible funds transferred to FTA require the same nonfederal matching share that such funds would require if used for the original FHWA program from which the funds were derived. States may use up to but no more than 10 percent of the funds transferred to Section 5311 for State administration, planning, and technical assistance if these activities are eligible under both the sending and receiving program. No local share is required for State administration. Flex transfers to Section 5311 do not increase the amount the State must spend for intercity bus service under Section 5311(f). The period of availability of flexible funds transferred to Section 5311 is three years.

- (7) Transfer of Appalachian Development Public Transportation Assistance Program Funds. The ADTAP under Section 5311(c)(3) permits transfers to FHWA for highway projects if the funds cannot be used for public transportation operating expenses. In order for FTA to consider the transfer, a State must provide documentation to the FTA Regional Office that includes:

- A description of the notice and comment process and appeal provided to affected public transportation providers, rural transit operators, and local Appalachian Regional Commission offices;
- A statement that the funds cannot be used for operating expenses; and
- A certification by the governor that the rural transit needs are being addressed.

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Upon receipt, FTA will review the request and, if approved, transfer the funds consistent with FTA's transfer process. Appeals may be submitted in writing to the FTA Administrator.

- e. Consolidation of Grants to Insular Areas. FTA grants to insular areas may be consolidated under the provisions of 48 U.S.C. 1469(a). This provision permits Federal agencies to streamline and consolidate certain grant-in-aid programs available to the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. These insular areas, which receive Section 5311 formula apportionments and RTAP allocations annually, also receive Section 5310 formula funds, Section 5339 formula funds, and, in some cases, Section 5307 formula funds. Specifically, 48 U.S.C. 1469(a) permits:
- (1) Federal agencies to consolidate any or all grants to each of the insular areas and to waive requirements for matching funds, applications, and reports with respect to the consolidated grants; and
  - (2) Each insular area to use the consolidated grant funds for any purpose or program authorized for any of the consolidated grants.

Under the authority of 48 U.S.C. 1469(a)(d), FTA has waived any local matching share requirements for grants to insular areas (Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands). FTA has no authority under 48 U.S.C. 1469a to waive any cross-cutting requirements, such as Buy America, Title VI, or drug and alcohol testing.

FTA implements this consolidation of Section 5307, 5310, 5311, and 5339 formula funding into a single award by transferring funds from one section to another, similar to the transfer of funds between Section 5311 and Section 5307 for small UZAs described above. The insular areas may transfer all or a portion of the formula funds apportioned for Sections 5307, 5310, or 5339 to Section 5311 for use under any of these sections. This should improve the efficiency of grant making and grant management for these areas that have limited staff resources and receive small amounts of funds under each of these programs. Those insular areas interested in submitting applications for consolidated grants should notify the appropriate FTA Regional Office for application procedures and consolidation requirements. Among other things, the area should identify the intended use of consolidated funds and should document that the transportation of seniors and people with disabilities will not be adversely affected.

Discretionary funds may not be consolidated with other FTA awards and must be expended on the projects approved in the application under which the recipient received the award. FTA's ER funds, authorized at 49 U.S.C. 5324, may not be consolidated with other FTA awards. ER funds must be expended on approved response, recovery, and resilience projects.



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4. ELIGIBILITY OF USE OF FUNDS IN A UZA.

Whether Section 5311 funds apportioned or transferred for use in rural areas may be used in a UZA depends on the type and location of the activity to be funded as follows:

- a. For Operating Assistance. A public transportation provider that receives only Section 5311 funds may use those funds for a geographically continuous public transportation service that primarily serves a rural area but has a limited number of route stop(s) within a UZA and is designed primarily to bring rural passengers to and from the UZA.
- b. For Capital Activities. For eligible capital activities that involve immobile capital assets (e.g., bus stops and terminals), Section 5311 funds may only be used in a rural area. If the activities to be funded involve mobile capital assets whose use is not tied to a specific location (e.g., acquisition and/or maintenance of rolling stock that will be put into revenue service), Section 5311 funds may be used in a UZA if they support a geographically continuous public transportation service that primarily serves a rural area but has a limited number of route stop(s) within a UZA and is designed primarily to bring rural passengers to and from the UZA.
- c. Recipients of Both UZA and Rural Funds. A public transportation provider that operates a geographically continuous public transportation service with a route stop(s) in both a UZA and rural area may use either UZA or rural funds entirely (apportioned or transferred to the respective area) or a combination of UZA funds and rural funds for the service or for mobile capital assets that support the service. However, if only rural funds will be used, the service should be designed as explained in section 4.a. above.

There are no UZA vs. non-UZA stipulations on the use of Section 5339(a) National Distribution funds. These funds may be used for eligible expenses in any part of a State to which the funds are allocated.

- d. NTD Reporting. A recipient's service data for public transportation services that engage more than one UZA or both a UZA and a rural area should be allocated to the respective UZAs or rural areas in accordance with the NTD Policy Manual that is applicable to the recipient's NTD report year.

5. LOCAL SHARE OF PROJECT COSTS.

- a. Planning and Capital Projects. The Federal share for capital projects that receive funding under the Section 5311 and Section 5339 programs and for planning projects under the Section 5311 program may not exceed 80 percent of the net project cost. Net project cost is that portion of the cost of a project that cannot reasonably be financed from the recipient's farebox revenues.

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b. Exceptions. The Federal share may exceed 80 percent for certain projects related to the ADA and Clean Air Act (CAA) as follows:

- (1) Vehicles. The Federal share is 85 percent for the acquisition of vehicles for purposes of complying with or maintaining compliance with the ADA (42 U.S.C. 12101 et seq.) or the CAA (42 U.S.C. 7401 et seq.). A revenue vehicle that complies with 49 CFR Part 38 may be funded at 85 percent Federal share.
- (2) Vehicle-Related Equipment and Facilities. The Federal share for project costs for acquiring vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying or maintaining compliance with the CAA or required by the ADA is 90 percent.

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

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

- (3) Sliding Scale. Higher Federal share rates for capital costs under Section 5311 are available to 14 States described in 23 U.S.C. 120(b). The higher Federal shares under 23 U.S.C. 120(b)(1), shown in Table III-1, are based on the ratio of designated public lands area to the total area of these 14 States. For FTA capital grants, the Federal share increases from 80 percent in proportion to the share of public lands in the State. For FTA operating grants in these same States, the Federal share increases from 50 percent to 62.5 percent (5/8) of the rate for capital grants. This provision does not apply to grants funded under Section 5339(a).

**TABLE III-1: SLIDING SCALE RATES FOR FTA SECTION 5311 GRANTS (23 U.S.C. 120(B)(1))**

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

State	Sliding Scale Rate for Transit Capital Grants	Sliding Scale Rate for Transit Operating Grants	State	Sliding Scale Rate for Transit Capital Grants	Sliding Scale Rate for Transit Operating Grants
Alaska	90.97	56.86	Nevada	94.89	59.31
Arizona	90.49	56.55	New Mexico	85.44	53.40
California	83.57	52.23	Oregon	84.63	52.90
Colorado	82.79	51.75	South Dakota	81.95	51.22
Hawaii	81.30	50.81	Utah	89.52	55.95
Idaho	84.97	53.11	Washington	81.42	50.89
Montana	82.75	51.72	Wyoming	86.77	54.23

Source: FHWA Notice N 4540.12, Attachment 1 (03/17/1992)

Additional higher Federal share rates are shown in Table III-2 and are based on the ratio of the area of nontaxable Indian land, public domain lands (reserved and unreserved), national forest, and national parks and monuments to the total area of each State.

These rates are available only for States that have signed agreements already in place with FHWA under 23 U.S.C. 120(b)(2). For FTA Section 5311 projects, any State having such an agreement with FHWA is eligible for the higher Federal match permitted in Section 120(b)(2). States may not enter into new Section 120(b)(2) agreements with FHWA for Section 5311 grants. In the absence of a Section 120(b)(2) agreement with FHWA, Section 120(b)(1) sets the sliding scale rates for Section 5311 grants.

**TABLE III-2: SLIDING SCALE RATES FOR FTA SECTION 5311 GRANTS**

(Numbers represent the maximum Federal share as a percentage of net project cost.)<sup>1</sup>

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

<sup>1</sup> Including National Forests, national parks, and monuments. Source: [FHWA Notice N 4540.12](#), Attachment 1 (3/17/1992)

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

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

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

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

Operating expenses are not eligible under Section 5339.

- d. State Administration and RTAP. No local share is required for State administration and RTAP. State administration is not eligible under Section 5339.
- e. Sources of Local Match for Section 5311. Local match for the remainder of net project costs:
- (1) May be provided in cash from non-government sources;
  - (2) May be provided from revenues from the sale of advertising and concessions;
  - (3) May be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital;

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- (4) May be derived from amounts appropriated or otherwise made available to a department or agency of the government (other than DOT) that are eligible to be expended for transportation;
  - (5) Notwithstanding subparagraph (4), may be derived from amounts made available to carry out the Federal Lands Highway Program established by 23 U.S.C. 203; and
  - (6) In the case of an intercity bus project that includes both feeder service and an unsubsidized segment of intercity bus service to which the feeder service connects, may be derived from the costs of a private operator for the unsubsidized segment of intercity bus service. This includes all operating and capital costs of such service, whether or not offset by revenue from such service, as an in-kind match for the operating costs of connecting rural intercity bus feeder service funded under Section 5311(f), if the private operator agrees in writing to the use of their costs for the unsubsidized segment of intercity bus service as an in-kind match. For intercity bus projects that will utilize the in-kind match provision codified in 49 U.S.C. 5311(g)(3)(D), details are discussed in Chapter IX.
- f. Sources of Local Match for Section 5339. Local match for the remainder of net project costs shall be provided:
- (1) In cash from non-government sources other than revenues from providing public transportation services;
  - (2) From revenues derived from the sale of advertising and concessions;
  - (3) From an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital;
  - (4) From amounts received under a service agreement with a State or local social service agency or private social service organization; or
  - (5) From revenues generated from value capture financing mechanisms.
- g. Cost Incurred by Providers of Public Transportation by Vanpool. Section 5323(i), "Government Share of Costs for Certain Projects," permits a recipient to count, as part of its local match for a capital project, amounts that private providers of public transportation by vanpool expend for the acquisition of rolling stock to be used by the provider in the recipient's service area. This excludes any amounts received from Federal, State, or local governments for the purchase of the rolling stock. A private provider of public transportation by vanpool may use revenues it receives in excess of operating costs for providing public transportation service in the recipient's service area to acquire rolling stock, provided that the recipient and provider have entered into a

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

This provision allows revenues received in the operation of public transportation service by vanpool that exceed operating expenses to be re-invested in capital equipment and to be counted toward a recipient's local match requirement under a capital cost of contracting grant agreement. If an applicant intends to utilize this provision in an award, the applicant must inform FTA in advance of submitting the grant application and must attach the required agreement to the application in the Transit Award Management System (TrAMS). The agreement must specify the amount intended to be counted as local match and must identify any amounts under that agreement that have already been applied as local match on any previous awards. FTA reserves the right to request any additional information necessary to justify the use of this provision in a grant application.

The term "private provider of public transportation" means a private entity providing vanpool service in the service area of a recipient of Section 5311 or 5339 funds using a commuter highway or vanpool vehicle. These types of vehicles must have the seating capacity of at least six adults (not including the driver), and at least 80 percent of the vehicle's mileage can be reasonably expected to be for the purpose of transporting commuters between their residences and their places of employment.

- h. Examples of Non-Federal Sources. Non-Federal sources that may be used for any or all of the local share include:
- (1) State or local appropriations;
  - (2) Dedicated tax revenues;
  - (3) Private donations;
  - (4) Net income generated from advertising and concessions; and
  - (5) In-kind match.

Recipients may count noncash shares, such as donations, volunteered services, or in-kind contributions, toward the local match only if the recipient formally documents the value of each noncash share and if this value represents a cost that would otherwise be eligible under the project. The net project cost must include the value of any in-kind contributions included in net project cost to the extent it is used as local match. Recipients should reference the Uniform Guidance, 2 CFR Part 200, for more information.

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

A State cannot use Section 5310 or any other FTA funds as match for Section 5311 or Section 5339 program funds. Even though funds are made available to the rural transit provider through a service agreement with a State or local social service agency or private social service organization, FTA funds may not be used as match because they are derived from a DOT program.

- i. Additional Sources of Local Share. In addition, other eligible sources of local match may include revenue bond proceeds; Transportation Development Credits (formerly referred to as toll revenue credits); program income; certain Social Security Act funds; Federal Lands Transportation Program funds; certain other Federal funds; and in-kind real estate contributions.

FTA Circular 5010.1F, "Award Management Requirements," discusses program income in some depth, as does 2 CFR 200.307. FTA Circular 5010.1F notes that recipients may retain program income so long as they use it for allowable capital and operating public transportation expenses.

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 (FFR) requires the reporting of program income.

In a grant application requesting operating assistance, the applicant must deduct farebox revenues from operating costs to arrive at the net project cost of an operating assistance project. 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.

- (1) 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. Rather, such proceeds are governed by law and regulation, including 49 U.S.C. 5334(h)(4), 2 CFR 200.313 (equipment), and 2 CFR 200.311 (real property). See FTA Circular 5010.1F for further discussion regarding use of such proceeds.



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- (2) Proceeds Related to Social Security Act Funds as Local Share. Section 403(a)(5)(C)(vii) of the Social Security Act, codified at 42 U.S.C. 603(a)(5)(C)(vii), Welfare-to-Work grant, prohibits the use of Temporary Assistance for Needy Families (TANF) block grant funds as local share for other federally assisted projects. Consistent with 49 U.S.C. 5311(g)(4), however, Federal transit law expressly authorizes recipients to use TANF funds as the local share for Section 5311 projects.
- (3) Funds Made Available Under the FLTP. The FLTP program, as authorized under 23 U.S.C. 203, provides funding directly to Federal land management agencies, including the National Park Service; the U.S. Department of Agriculture (USDA) Forest Service; the U.S. Fish and Wildlife Service; the Bureau of Land Management; and the U.S. Army Corps of Engineers for transportation projects on or near Federal lands. Eligible projects include capital projects and operating assistance for facilities or equipment, including federally owned roads and transit systems. Funds apportioned under this program may be used as a form of local match for other FHWA and FTA programs. For example, a recipient may partner with the Forest Service or National Park Service to install bus shelters or other transit improvements on Federal lands within the recipient's service area.
- (4) Other Federal Funds. Federal fund braiding for local match allows grant recipients to use funds from one Federal program to meet the match requirements of another. The Coordinating Council on Access and Mobility's (CCAM) [Federal Fund Braiding Guide](#) provides information for potential grantees and CCAM agency program managers on acceptable Federal fund braiding arrangements on transportation-related projects. In addition to funds from Section 403 of the Social Security Act, in a very limited number of situations, other Federal funds may be eligible for inclusion in the local match. Such use is dependent upon statutory authority and agreement by the Federal agency. As an example, Community Development Block Grant (CDBG) 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:
- (a) Eligible for assistance under the CDBG Program; and
  - (b) In compliance with HUD regulations, "Community Development Block Grants," 24 CFR Part 570. See 42 U.S.C. 5305(a)(9) and 24 CFR 570.201(g).

(5) 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.

(6) Federal and local matching funds may only be applied to eligible operating expenses incurred on the accrual basis of accounting in providing public transportation services during the project period. Applicants must confirm with the applicable Federal agency that proposed Federal fund braiding arrangements meet the requirements of the applicable Federal program before using those funds as match for FTA funds.

- j. 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 has been drawn down or another period. 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 award. 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's demonstration 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 drawn-down Federal funds in the time period specified by FTA's approval. FTA will not approve retroactive deferral of local share.

- k. Alternative Financing. Recipients, especially those wishing to undertake major capital projects, 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.

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;

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- (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.

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## CHAPTER IV

### ELIGIBLE PROJECTS & REQUIREMENTS

#### 1. STATE ADMINISTRATION, PLANNING, AND TECHNICAL ASSISTANCE.

The State may use not more than 10 percent of its apportioned Section 5311 funds, including funds apportioned under Section 5340, “Growing States/High Density States Program” (but not the RTAP allocation), to administer the Section 5311 program and related planning and to provide technical assistance to subrecipients.

Allowable administrative costs include salaries, overhead expenses, supplies, and office equipment used to administer the program.

Allowable technical assistance costs may include program planning; program development; development of vehicle and equipment specifications; management development; coordination of public transportation programs (public and private for-profit and nonprofit); and such research as the State may deem appropriate to promote effective means of delivering public transportation service in rural areas.

No local share is required for these expenses. The State may pass any portion of these funds on to subrecipients for the same purposes and, at its discretion, may impose a local share requirement.

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

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

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

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

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

These activities are not eligible under Section 5339.

## 2. PLANNING PROJECTS.

Planning is an eligible expense under Section 5311, provided that an award under Section 5311 for planning activities shall be in addition to funding awarded to a State under Section 5305 (Statewide Transportation Planning Program) for planning activities that are directed specifically to the needs of rural areas in non-metropolitan areas in the State.

Planning projects must be included in the planning work program and can support efforts to:

- a. Develop transportation plans and programs;
- b. Plan, engineer, design, and evaluate a public transportation project; and
- c. Conduct technical studies relating to public transportation.

Eligible activities include the following:

- a. Studies related to management, planning, operations, capital requirements, and economic feasibility;
- b. Evaluating previously financed projects;
- c. Peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analyses among metropolitan planning organizations and other transportation planners; and
- d. Other similar and related activities preliminary to and in preparation for constructing, acquiring, or improving the operation of facilities and equipment.

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These activities are not eligible under Section 5339.

3. CAPITAL PROJECTS. Capital projects eligible under Section 5311 include all projects listed under 49 U.S.C. 5302(4). In general, under Section 5311, eligible capital project expenses involve purchasing, leasing, constructing, maintaining, or repairing facilities, rolling stock, and equipment for use in a public transportation system. Under Section 5311, capital project expenses may include all direct costs and indirect costs associated with a project (provided that the recipient has an approved Indirect Cost Allocation Plan or indirect cost proposal).

Section 5339(a) authorizes a more targeted subset of capital projects. Section 5339(a) funds are available to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities. For Section 5339 funds, capital expenses must be related to buses or bus facilities only. Preventive maintenance is not an eligible expense under Section 5339. Eligible projects as authorized in Section 5339(a)(1) and (2) are not limited to projects that support fixed-route only.

- a. ADA Complementary Paratransit Services. A State may use up to 10 percent of its annual Section 5311 formula apportionments at the capital project 80/20 Federal/local share ratio for ADA complementary paratransit services if, in accordance with 49 CFR Part 37, subpart F, the applicable state or subrecipient, whomever is operating the service, is compliant with USDOT regulations at 49 CFR Parts 27, 37, and 38 in its implementation of transportation provisions of the ADA.

A State may use up to 20 percent of its annual Section 5311 apportionment at the capital project 80/20 Federal/local share ratio to pay for ADA complementary paratransit services if the state or subrecipient, whomever is operating the service, meet the requirements above and meets at least two of the requirements listed below.

- (1) Provides an active fixed-route travel training program that is available for riders with disabilities.
- (2) Provides that all fixed-route and paratransit operators participate in a passenger safety, disability awareness, and sensitivity training class on at least a biennial basis.
- (3) Has memoranda of understanding in place with employers and the American Job Center to increase access to employment opportunities for people with disabilities.

The percentage caps are applied at the State's apportionment level and not at the subrecipient level. If a state opts to make use of this provision, it shall allocate funds to ADA-compliant subrecipients in a fair and equitable manner. The state is responsible for

certifying any subrecipient making use of this provision is compliant with the ADA prior to allowing the subrecipient to fund any part of its ADA complementary paratransit service at the 80/20 Federal/local share.

These provisions do not apply to Section 5339.

b. Eligible Capital Expenses. Eligible capital expenses for Section 5311 and Section 5339(a) include the acquisition, construction, and improvement of public transit facilities and equipment needed for a safe, efficient, and coordinated public transportation system and certain other expenses classified as capital in Section 5302. Under Section 5339(a), these capital expenses must be directly related to buses or bus facilities to be eligible. Examples of eligible capital expenses for both Sections 5311 and 5339(a) include but are not limited to:

- (1) Buses;
- (2) Vans or other paratransit vehicles;
- (3) Vehicle rehabilitation, remanufacture, or overhaul;
- (4) Maintenance and operations buildings;
- (5) Passenger shelters, bus stop signs, park and ride lots, and similar passenger amenities;
- (6) Bus charging and fueling equipment;
- (7) Radios and communications equipment;
- (8) Wheelchair lifts and restraints;
- (9) Extended warranties that do not exceed industry standards;
- (10) Operational support, such as computer hardware or software;
- (11) Installation costs, vehicle procurement, testing, inspection, and acceptance costs;
- (12) Construction or rehabilitation of transit facilities, including design and engineering (which under Section 5339(a), only when costs are incidental to the overall cost of the facility), and land acquisition;
- (13) Lease of equipment (including finance charges, including interest, and ancillary costs such as delivery and installation charges) or facilities;

- (14) Capital portion of costs for service provided under contract, including depreciation and interest on facilities and equipment, as well as allowable capital costs that, for Section 5339(a), limited to the amounts attributable to leasing and/or depreciation of vehicles, equipment, and facilities; and
- (15) Joint development improvements that are eligible capital expenses under 49 U.S.C. 5302(4)(G) (refers to the coordinated development of public transportation facilities with other non-transit development, including commercial and residential development). See FTA Circular 7050.1C, “Federal Transit Administration Guidance on Joint Development,” for more information on FTA’s joint development requirements.

For Section 5311 only, eligible capital expenses also include:

- (1) Mobility management, consisting of short-range planning, management activities, and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a governmental authority (excluding operating expenses);
- (2) Associated capital maintenance, including equipment, tires, tubes, and material (each costing at least 0.5 percent of the current fair market value of comparable rolling stock equipment, tires, tubes, and material); and reconstruction of equipment and material, each of which, after reconstruction, will have a fair market value of at least 0.5 percent of the current fair market value of comparable rolling stock equipment and material;
- (3) Facilities to provide access for bicycles to transit facilities or equipment for transporting bicycles on transit vehicles;
- (4) Preventive maintenance. (As with operating assistance activities, awards used toward preventative maintenance are not meant to be open, ongoing awards. These awards should contain no more than three apportionment fiscal years of funding. The award may be amended multiple times to account for the three fiscal years of funding allocated to the recipient. Any request may only be for the immediately preceding year and/or current year activities.); and
- (5) Ferryboats and terminals used for public transportation.

c. Requirements Related to Vehicles and Equipment Eligibility.

- (1) Fleet Expansion. Recipients and subrecipients that are seeking assistance to undertake fleet and service expansion should describe the new markets they intend



to serve or whether the expansion is necessary to meet demands for service in existing markets. The application should address vehicle needs, fleet size, and spare ratio. For subrecipients, this information should be included in the Section 5311 POP attached to the grant application. Information may include documentation developed during the statewide transportation planning process.

All providers of fixed-route public transportation are required to adopt systemwide service policies to ensure service design and operation practices do not result in discrimination on the basis of race, color, or national origin. One such policy is related to vehicle assignment. Vehicle assignment refers to the process by which transit vehicles are placed into service in depots and on routes throughout the transit provider's system. Please see FTA Circular 4702.1B, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," for additional information.

- (2) 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.
- (3) Innovative Procurement. Per 49 U.S.C. 5339(a)(10), recipients of Section 5339(a) formula and (b) competitive funds should, to the extent practicable, seek to utilize the procurement tools authorized under Section 3019 of the FAST Act, which addresses innovative procurement. If an eligible recipient or subrecipient of Section 5339(a) or (b) funds purchases fewer than five buses through a stand-alone procurement, the recipient or subrecipient shall provide a written explanation regarding why the tools authorized under Section 3019 of the FAST Act were not utilized.

Section 3019 of the FAST Act lays out the parameters for joint cooperative purchasing and leasing of rolling stock and related equipment. There are several options available to FTA recipients, including:

- (a) Cooperative Procurement Contracts. A "cooperative procurement contract" means a contract entered into between a State government or eligible nonprofit entities and one or more vendors. Under this contract, the vendor agrees to provide an option to purchase rolling stock and related equipment to multiple participants. The contract term for a cooperative procurement contract may be for an initial term of not more than two years and may include three optional extensions of one year each. A lead procurement

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agency or lead nonprofit entity in such a procurement may charge participants in the contract no more than one percent of the total value of the contract.

- (b) State Cooperative Procurement Schedules. A State government may enter into a cooperative procurement contract with one or more vendors if the vendors agree to provide an option to purchase rolling stock and related equipment to the State government and any other participant and if the State government acts as the lead procurement agency. Under prior law, FTA referred to these types of State contracts as “State purchasing schedules” and, as such, they were only available to recipients within that State. Under the FAST Act, a recipient may purchase rolling stock and related equipment from any State’s cooperative procurement contract or schedule.
- (c) Joint Procurement Clearinghouse. FTA has established a clearinghouse for the purpose of allowing recipients to aggregate planned rolling stock purchases and identify joint procurement participants. The clearinghouse is available to transit agency procurement staff through TrAMS. The clearinghouse includes information about potential opportunities for joint procurement of rolling stock, including buses, railcars, and ferries. The tool is likely to be particularly useful to small transit providers looking to pool purchases and create economies of scale. More information on FTA’s Joint Procurement Clearinghouse can be accessed on FTA’s [Joint Procurement Clearinghouse web page](#).
- d. Other Requirements Related to Vehicles and Equipment. Recipients should consult FTA Circular 5010.1F for other requirements related to vehicles and equipment, including Buy America; bus testing requirements; minimum useful life; spare ratio and contingency fleets; overhaul and rebuild policies; Transit Vehicle Manufacturer Disadvantaged Business Enterprise requirements; ADA requirements, etc.
- e. Requirements Related to Facilities Eligibility. This subsection contains information concerning program requirements specific to the construction or acquisition of facilities funded under Section 5311 or 5339(a).

FTA generally assists in building two kinds of facilities: 1) non-passenger-facing facilities that support transit operations, such as maintenance garages, operations centers, and administrative buildings and 2) passenger-facing facilities that provide passenger amenities and/or extend into the built environment, such as bus or rail terminals; stations; bus stop infrastructure; transfer facilities; park-and-ride lots; and intermodal facilities that include both transit and intercity bus or rail services.

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- f. 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 should be provided to FTA at the time of grant review to determine allocable costs related to non-transit use for construction, maintenance, and operation costs. For further information, see FTA Circular 5010.1F.
- g. 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. This not only includes room for future expansion based on fleet and service needs but also the potential transition to cleaner fuel vehicles and the infrastructure necessary to maintain and/or accommodate those vehicles. For a recipient currently operating 20 vehicles, a request for a bus maintenance garage that will accommodate 20 vehicles and have space for a 10 to 25 percent vehicle increase would generally be considered an acceptable grant request.

For the same transit agency, a grant request for a garage accommodating 40 vehicles may not be acceptable, unless the recipient can demonstrate its need, willingness, and ability to expand its fleet to 40 vehicles over the period of time that coincides with the useful life of the facility. Expansions or improvements to provide additional accommodations for cleaner fuel vehicles may also be justified through agencies’ fleet transition plans. In either case, however, the purchase of enough land for the future expansion of the fleet and supporting facilities may be justifiable.

- h. Project Staging. When applying for a grant to build a facility, a recipient or subrecipient must be able to fully describe the project and estimate the cost of the facility. Planning for the project may include a feasibility study or needs assessment for the project that provides preliminary cost estimates, funding sources, and possible site locations and related environmental work. The next phase is engineering and design, which could include costs for development of an environmental document specific to the project and real estate appraisals. Once FTA has reviewed and approved the environmental documentation, funds may be requested for land acquisition and construction.
- i. Planning Justifications. There must be a planning basis for every project or group of projects. Accordingly, FTA requires recipients to include the planning justification in the grant application submitted in TrAMS.

Planning activities are an eligible expense under Section 5311 but not under Section 5339(a). However, costs associated with environmental compliance, including engineering and design that are incidental to project delivery, are eligible capital expenses under Section 5339(a).

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Feasibility studies at varying levels of detail as appropriate and proportionate should be undertaken in support of projects to acquire, install, construct, replace, or rehabilitate major transit facilities. In the grant application, a recipient may choose to reference and summarize pertinent parts of documents in which results of project studies were reported (e.g., transportation plans, unified planning work programs (UPWPs), feasibility studies, capital improvement plans, management systems, etc.). FTA may request copies of studies or summaries of study results when reviewing a grant application. The paragraphs that follow provide additional guidance for various kinds of facilities projects.

- j. Passenger Amenities and Bus Boarding and Alighting Areas. A program for bus shelters and other improvements for bus boarding and alighting areas should be developed for the existing and proposed network based on the operator's shelter or bus stop infrastructure improvement and provision criteria and to the extent the construction specifications are within its control. In the case of significant increases, this program should be described in the grant application. Bus shelters and other improvements to bus boarding and alighting areas must comply with standards for accessibility established by USDOT regulations implementing the transportation provisions of the ADA (49 CFR Parts 27, 37, and 38, as amended). A map indicating the transit network and shelter, other bus stop infrastructure improvements, and bus boarding and alighting area location should be developed and available upon request.
- k. Transfer Facility or Transportation Center. The basis for a new transfer facility or transportation center should be documented in a planning/feasibility study. Elements would include:
  - (1) A determination of transit demand and other uses;
  - (2) An evaluation of existing transfer facilities or sites to satisfy existing and future transit needs;
  - (3) An evaluation and selection of sites if a new facility is warranted;
  - (4) A preliminary concept design and cost estimate of the transit transfer facility;
  - (5) Development of a staging and financing plan; and
  - (6) Environmental documentation for the new facility.
- l. Park-and-Ride Facilities. The basis for a new park-and-ride facility should be documented in a planning/feasibility study. Generally, activities would include:
  - (1) An evaluation of demand and service needs;

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- (2) An evaluation of sites to satisfy existing and future transit needs;
  - (3) A preliminary concept design of the park-and-ride facility;
  - (4) Development of a staging and financing plan; and,
  - (5) Environmental documentation for the new facility.
- m. Maintenance and Administrative Facilities. The basis for new maintenance and administrative facilities or major expansions or renovations of existing facilities should be documented in a planning/feasibility study. Activities would include:
- (1) An evaluation of the condition and adequacy of the existing facility, if any;
  - (2) Development of site evaluation criteria;
  - (3) Identification and evaluation of alternative sites based on site evaluation and design requirements;
  - (4) Final site selection and preliminary concept building design;
  - (5) Environmental documentation; and
  - (6) Development of a staging and financing plan.
- n. Joint Development Projects. “Joint development improvements” are eligible capital expenses under 49 U.S.C. 5302(4)(G), and the term commonly refers to the coordinated development of public transportation facilities with other non-transit development, including commercial and residential development. In essence, a joint development project is a public transportation project that integrally relates to and often co-locates with commercial, residential, mixed-use, or other non-transit development. Joint development may include partnerships for public or private development associated with any mode of transit system that is being improved through new construction, renovation, or extension. Joint development may also include intermodal facilities, intercity bus and rail facilities, transit malls, or historic transportation facilities. Coordinated development often involves private and public entities and is supportive of the private sector participation provisions of 49 U.S.C. 5315.

FTA encourages the full use of real property and facilities purchased and constructed with Federal funds to pursue joint development. FTA’s joint development policy describes additional opportunities to incorporate commercial, residential, industrial, or mixed-use elements into eligible projects. See FTA Circular 7050.1C, “Federal Transit

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Administration Guidance on Joint Development,” for more information on FTA’s joint development requirements.

- o. Design and Installation of Public Art or Non-Functional Landscaping. Design or installation of stand-alone art projects or the incremental costs of incorporating art or non-functional landscaping are not eligible expenses of FTA funds. However, art that serves a functional or aesthetic design purpose may be integrated into facility design, landscaping, and historic preservation activities and funded as a capital expense as part of those activities. For example, art may be integrated through the use of floor or wall tiles that contain aesthetic commercially available elements, use of color and materials, lighting, and in the overall design of a facility. In addition, eligible capital projects include incidental expenses related to acquisition or construction, including design costs. However, the incidental costs of including an artist on a design team are not eligible expenses. Procuring sculptures or other items that are not integral to a facility is also not an eligible expense (49 U.S.C. 5323(h)).
- p. Other Requirements Related to Facilities. Recipients should consult FTA Circulars 5010.1F and 4702.1B for other requirements related to facilities.
- q. Facility and Vehicle-Related Projects to Comply with the Americans with Disabilities Act of 1990. As mentioned in Chapter III, the Federal share for project costs for acquiring vehicle-related equipment or facilities for purposes of complying or maintaining compliance with the ADA is 90 percent. Applications to FTA requesting a 90 percent Federal share for purchasing vehicle-related equipment or facilities for ADA compliance must separately account for the project elements that provide for compliance with the requirements. The application must also account for the other vehicle-related equipment or facility project elements that the recipient does not directly attribute to ADA compliance.
- r. Transit-Oriented Development. FTA encourages land use policies that promote investment in TOD projects, which involve compact, mixed-use development near transit facilities with high-quality walking environments. TOD projects help create sustainable communities where people of all ages and incomes have transportation and housing choices. They increase location efficiency where people can walk, bike, and take transit.

Depending on the formula grant program (i.e., Sections 5311 or 5339(a)), eligible activities that could foster TOD include but are not limited to construction, renovation and improvement of intercity bus or rail facilities; transportation-related furniture, fixtures, or equipment; transit facilities that incorporate community services; walkways; incorporation of open space in facility designs; real estate acquisition for transit projects; project development activities; and other related professional services. TOD benefits

transit by increasing ridership, reducing congestion, and providing value for both the public and private sectors while creating a sense of community and place.

- s. Bicycle and Pedestrian Paths. Bicycle and pedestrian paths within a certain distance of a transit stop or station qualify as associated transit improvements as defined in 49 U.S.C. 5302(2) and are eligible capital projects under Section 5311. Pedestrian paths located within a half mile of a transit stop or station and bicycle paths located within three miles of a transit stop or station are eligible capital projects. Projects outside this distance may be eligible if they are within a distance to a particular stop or station to which a person could safely and conveniently walk or bike. The Federal share of such activities is 80 percent.
- t. Capital Cost of Contracting. Some FTA recipients turn to one or more outside third-party sources 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 under the Section 5311 and 5339(a) programs with the capital consumed over the course of the contract.

If a contractor provides 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 (only eligible under Section 5311), the capital consumed may be, for example, depreciation of the maintenance garage or depreciation of the machine that lifts the vehicle. Capital consumed may also include a proportionate share of the interest the contractor might pay out as the contractor purchases and makes these capital assets available to the recipient. FTA refers to the concept of assisting with capital consumed as the “capital cost of contracting.” FTA will provide assistance at the 80 percent/20 percent FTA/local share ratio for the capital cost of contracting.

Costs that may be associated with a recipient’s purchase of transportation service, maintenance service, or use of vehicles from a separate entity should not automatically be deemed eligible capital costs of contracting. A purchase of service arrangement must be mindful of the funding sources used to obtain the assets to be utilized. Only the costs attributable to the recipient’s use of privately owned assets are eligible under this policy, as publicly owned or funded assets that are used in the provision of services could potentially result in “double dipping” of public revenues and having a Federal interest overlapping another public interest. Assets purchased with Federal, State, or local government assistance are not eligible. Any capital that may be consumed under the applicable contract for service or maintenance that does not meet the definition of public transportation, such as for charter or school bus service, is not an eligible cost.

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In addition, FTA provides Section 5311 assistance for preventive maintenance, which is defined as all maintenance. In some instances, a recipient may contract with outside sources for both maintenance and public transportation service (i.e., contractor provides both maintenance and vehicles). In such cases, both FTA's capital cost of contracting and preventive maintenance standards will apply.

To avoid imposing burdensome accounting rules, with regard to contracts for bus and paratransit-related services, FTA will allow the recipient to consider a percentage of leased service or contracted maintenance capital costs without further justification and will provide assistance for 80 percent of the resultant amount. Table IV-1, below, shows the percentages and the corresponding type of contract service for bus- and paratransit-related services. The percentages are calculations using data from the NTD. Presented by type of contract, the calculations represent industry averages in counting capital-eligible activities as a share of total cost. The percentages apply whether the service is local, express, shuttle, or paratransit.



**TABLE IV-1: PERCENT OF CONTRACT ALLOWED FOR CAPITAL ASSISTANCE WITHOUT FURTHER JUSTIFICATION (SECTIONS 5311 AND 5339(A))**

**(Based on assumption that contractor provides the assets)**

<b>Bus- and Paratransit-Related Contract Services</b> <b>Type of Contract</b>	<b>Percent of Contract Eligible for 80 Percent Federal Share (Section 5311)</b>	<b>Percent of Contract Eligible for 80 Percent Federal Share (Section 5339(a))</b>
1. Service Contract (contractor provides maintenance and transit service; grant recipient provides vehicles)	40 percent	0 percent
2. Service Contract (contractor provides transit service only; recipient provides vehicles and maintenance)	0 percent	0 percent
3. Vehicle Maintenance Contract (contractor provides maintenance; grant recipient provides vehicles and transit service)	100 percent	0 percent
4. Vehicle Lease Contract (contractor provides vehicles; grant recipient provides maintenance and transit service)	100 percent	100 percent
5. Maintenance/Lease Contract (contractor provides vehicles and maintenance; grant recipient provides transit service)	100 percent	See note below table
6. Turnkey Contract (contractor provides vehicles, maintenance, and transit service)	50 percent	
7. Vehicle/Service Contract (contractor provides vehicles and transit service; grant recipient provides maintenance)	10 percent	10 percent

*Note: Maintenance is not an eligible expense under Section 5339(a). Contract expenses eligible for reimbursement under Section 5339(a) are limited to the amounts attributable to leasing and/or depreciation of vehicles, equipment, and facilities provided by the contractor. For contract types that include maintenance, recipients should provide a cost breakdown that excludes those expenses. Further, this table does not apply to rail fixed guideway contracted services that may be supported by Section 5311 funds. The contractor may include eligible expenses as line items in the contract, and FTA will participate at 80 percent of actual costs. The applicant/recipient should upload the contract to the "Application Documents" section of the grant application in TrAMS for verification purposes.*

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The calculations above in Table IV–1 are based on the assumption that the contractor (or someone other than the recipient) provides the assets. For example, if a contractor provides maintenance, FTA assumes in the calculations that the contractor does so in a facility provided by the contractor. Where the recipient is providing maintenance, this does not apply. As an additional example, in a contractor-operated vanpool program that qualifies under a Turnkey Contract (see Type 6), a vanpool driver provides the service rather than a contractor employee, but the recipient does not provide service.

A recipient may request FTA participation at a higher percentage of the contract than FTA prescribes in Table IV-1 with adequate justification.

A recipient applying for assistance with costs that contain any of the capital costs of contracting permutations listed in Table IV–1 may list costs for the contracted service in the capital cost of contracting budget category, or the recipient may use both that category and another appropriate category, such as preventive maintenance or leasing, so long as the total of the costs do not exceed the amount of the contract.

In the case where the recipient owns the facilities (constructed with FTA funds) from which the contractor operates, the vehicles (purchased with FTA funds) are maintained by the contractor and the service contractor is responsible for maintenance of the facility and vehicles within the scope of the service contract, the recipient will need to calculate the proportion of the contract that actually represents allowable capital costs. These include (1) all vehicle maintenance costs and (2) all costs to maintain the recipient’s facilities, because such costs are eligible as preventive maintenance. In this case, because the facility is already owned by the recipient, depreciation of the facility cannot be included as an eligible cost because to do so would be double counting: FTA and recipient funds have already been used to cover the capital costs of the maintenance facility itself. Because the facility is owned by the recipient, although the cost of the contract is an eligible expense, the eligible amount will have to be determined based on the contract. The amount of the contract costs attributed to vehicle maintenance and facility maintenance is eligible for Federal capital funds at 80 percent as an eligible preventive maintenance expense.

Costs of a contract which remain after application of capital cost of contracting are operating expenses and, depending on the recipient and purpose of the service, may be eligible for Federal operating assistance. For example, 50 percent of a Turnkey Contract (Type 6) would be eligible for Federal capital assistance at a matching ratio of 80 percent Federal/20 percent local share. The remaining 50 percent of the costs of the contract, less any fares received, would be eligible for Federal operating assistance at a matching ratio of 50 percent Federal/50 percent local share. The same costs of a contract may not be double counted and receive both capital and operating assistance. Thus, if a

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maintenance/lease contract (Type 5) is treated as a capital expense under capital cost of contracting, none of these expenses would be reimbursable as an operating expense.

4. EMPLOYEE TRAINING EXPENSES. Human Resources and Training. Pursuant to 49 U.S.C. 5314(b), up to 0.5 percent of recipients' Section 5339(a) funds each fiscal year are available to be expended on programs that address human resource needs, as they apply to public transportation activities, at a Federal share not to exceed 80 percent. The 0.5 percent limitation does not apply to Section 5311, as training is an eligible expense under Section 5311. Applicable programs may include:
- a. An employment training program;
  - b. An outreach program to increase employment for veterans, women, individuals with a disability, and minorities (including American Indians or Alaska Natives; Asian; Black or African Americans; native Hawaiians or other Pacific Islanders; and Hispanics) in public transportation activities;
  - c. Research on public transportation personnel and training needs;
  - d. Training and assistance for veteran and minority business opportunities; and
  - e. Consensus-based national training standards and certifications in partnership with industry stakeholders.

In addition, pursuant to 49 U.S.C. 5314(c), up to 0.5 percent of a recipient's Section 5339(a) funds in each fiscal year may be expended on employee training at the National Transit Institute (NTI) at an 80 percent Federal share. This provision does not apply to Section 5311 funds.

5. OPERATING ASSISTANCE. Operating expenses are those costs directly related to system operations. Operating expenses are eligible under the Section 5311 program but not the Section 5339 program. At a minimum, States must consider the following items as operating expenses: fuel, drivers' salaries and fringe benefits, dispatcher salaries and fringe benefits, and licenses.

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

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Farebox revenues do not include payments made directly to the transportation provider by human services agencies to purchase service. However, purchase of transit passes or other fare media for clients would be considered farebox revenue. A voluntary or mandatory fee that a university or similar institution imposes on all its students for free or discounted transit service is not farebox revenue. Payments made directly to the transportation provider by human services agencies and university fees passed on to the transit provider would be considered “program income” and may be used to reduce the net operating cost of the service on the existing grant or may be used as local match on a future grant. The State may include operating assistance projects of up to two years’ duration in its annual POP. FTA extends pre-award authority for operating costs incurred as of the beginning of the local fiscal year but before award. Farebox revenue must be subtracted for the timeframe in which a Project Sponsor is requesting reimbursement. FTA is not permitted to reimburse for costs that could be covered by farebox revenue; thus, an applicant cannot defer this farebox revenue for future costs.

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

6. PROJECT ADMINISTRATIVE EXPENSES. Under the Section 5311 program only, the State may treat project administrative expenses incurred by a local provider as a separate cost category from capital, planning, or operating expenses. This allows States to consider administrative expenses as “nonoperating” expenses. FTA may fund nonoperating expenses up to the 80 percent Federal share or more if the State is eligible for the sliding scale of Federal share.

Eligible project administrative costs may include but are not limited to general administrative expenses (e.g., salaries of the project director, secretary, and bookkeeper); marketing expenses; insurance premiums or payments to a self-insurance reserve; office supplies; facilities and equipment rental; standard overhead rates; and the costs of administering drug and alcohol testing. Interest on short-term loans for operating assistance is eligible as project administration if it is approved by the State. Additionally, administrative costs for promoting and coordinating ridesharing are eligible as project administration if the activity is part of a coordinated public transportation program.

7. JOB ACCESS AND REVERSE COMMUTE PROJECTS. This eligible project category for Section 5311 includes all types of projects that were formerly eligible under Section 5316,

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Job Access and Reverse Commute Program, prior to its repeal by MAP-21. Examples of eligible projects are listed below. There is no requirement or limit to the amount of Section 5311 funds that can be used for these projects.

A JARC project is defined in 49 U.S.C. 5302(10) as:

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

In order for a JARC project to receive funding under Section 5311, it must meet the following requirements:

- a. New and Existing Services. Eligible JARC projects must provide for the development or maintenance of eligible JARC services. In order to be eligible as a JARC project, a proposed project must qualify as either a “development project” or “maintenance project” as follows:
  - (1) Development Projects. “Development of transportation services” means new projects that meet the statutory definition and were not in service as of October 1, 2012. This includes projects that expand the service area or hours of operation for an existing service. Projects for the development of new qualifying JARC projects must be identified as such in the recipient’s POP.
  - (2) Maintenance Projects. “Maintenance of transportation services” means projects that continue and maintain JARC projects and services that received funding under the former Section 5316 program or were previously funded as JARC projects under Section 5311 program.
- b. Reverse Commute Projects. Reverse commute projects are a category of JARC projects that provide transportation services from urbanized and rural areas to suburban employment locations. Generally, these services increase the capacity of public transportation services operating in the reverse direction of existing peak services. Reverse commute projects may only qualify as JARC projects under Section 5311 if they meet all other requirements, including having been designed to transport welfare recipients and eligible low-income individuals to and from jobs and employment-related activities.

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- c. Welfare Recipients and Eligible Low-Income Individuals. Projects funded as JARC projects must be designed to provide transportation for welfare recipients and eligible low-income individuals. The term “low-income individual” is defined as an individual whose family income is at or below 150 percent of the poverty line, as that term is defined in Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section, for a family of the size involved. Projects that serve the general public without specific route or design characteristics intended to respond to the needs of these populations are not eligible as JARC projects. However, JARC projects do not need to be designed exclusively for these populations.
- d. Planning and Program Development. In order for an entity to receive Section 5311 funding for a JARC project, the project must be identified by the recipient as a JARC project in the recipient’s POP, which must be made available for public review and comment.

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

- e. Eligible Projects. Examples of activities that could be eligible as JARC projects that go beyond what service providers of public transportation may otherwise commonly deliver include but are not limited to:
- (1) Extending span of service later in the evening and on weekends and providing off-peak services to areas previously only served during peak-only periods;
  - (2) Late-night and weekend service;
  - (3) Adding services in the reverse of peak direction to areas previously only served by peak-direction services, including to suburban and lower-density employment opportunities;
  - (4) Guaranteed ride home service;
  - (5) Expanding fixed-route or demand-response service coverage to areas that would benefit and better connect low-income individuals and welfare recipients to employment;

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- (6) Ridesharing and carpooling activities for reverse commutes or to better connect low-income individuals and welfare recipients to employment;
  - (7) Transit-related aspects of bicycling that enhance access to transit for low-income individuals and welfare recipients (such as adding bicycle racks to vehicles to support individuals that bicycle a portion of their commute, providing secure bicycle parking at transit stations, or infrastructure and operating expenses for bicycle sharing programs in the vicinity of transit stations, not including the acquisition of bicycles);
  - (8) Promotion, through marketing efforts, of the (1) use of transit by low-income individuals and welfare recipients with nontraditional work schedules; (2) use of transit-voucher program by appropriate agencies for welfare recipients and other low-income individuals; (3) development of employer-provided transportation such as shuttles, ridesharing, carpooling; or (4) use of transit-pass programs and benefits under Section 132 of the Internal Revenue Code of 1986;
  - (9) Supporting the administration of and expenses related to voucher programs. This activity is intended to supplement existing transportation services by expanding the number of providers available or the number of passengers receiving transportation services. Vouchers can be used as an administrative mechanism for payment to providers of alternative transportation services. JARC projects can provide vouchers to low-income individuals to purchase rides, including (1) mileage reimbursement as part of a volunteer driver program, (2) a taxi trip, or (3) trips provided by a human services agency. Providers of transportation can then submit the voucher to the FTA recipient or subrecipient administering the project for payment based on predetermined rates or contractual arrangements. Transit passes for use on fixed-route or ADA complementary paratransit service are not eligible. Vouchers are an operational expense that requires a 50 percent local match;
  - (10) Supporting local car loan programs that assist individuals in purchasing and maintaining vehicles for shared rides, including the provision of capital loan guarantees for such car loan programs, provided the Federal interest in the loan guarantee fund is maintained and the funds continue to be used for subsequent loan guarantees or are returned to the government upon the release of funds from each guarantee;
  - (11) Integrating automated regional public transit and human services transportation information, scheduling, and dispatch functions;

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- (12) Subsidizing the purchase or lease by a nonprofit organization or public agency of a van or bus dedicated to shuttling employees from their residences to a suburban or rural workplace;
  - (13) Otherwise facilitating the provision of public transportation service to suburban or rural employment opportunities; and
  - (14) Supporting mobility management and coordination programs among public transportation providers and other human services agencies providing transportation. Mobility management techniques may enhance transportation access for populations beyond those serviced by one agency or organization within a community. Mobility management is intended to build coordination among existing public transportation providers and other transportation service providers with the result of expanding the availability of service.
8. INTEREST AND DEBT FINANCING AS AN ELIGIBLE COST. There are several areas in which interest is an eligible project cost for FTA's Section 5311 program assistance, with certain limitations, including the factors indicated in 2 CFR 200.449(c)-(g). Bond interest under advance project authority; buildings and equipment; working capital; leasing; capital cost of contracting; and other interest costs are often eligible project costs. For further information, please refer to FTA Circular 5010.1F.



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## CHAPTER V

### PLANNING & PROGRAM DEVELOPMENT

1. FAIR AND EQUITABLE DISTRIBUTION. The POP the State submits to FTA for approval must provide for fair and equitable distribution of the Section 5311 and Section 5339(a) apportionment in the State, including Indian reservations, as well as maximum feasible coordination with other public transportation services assisted by other Federal sources. The State should document its process for selecting recipients consistent with the SMP as outlined in Chapter VI. The TTP funds set aside for Indian Tribes are not meant to replace or reduce funds that Indian Tribes receive from States through the Section 5311 program but should be used to enhance public transportation on Indian reservations and other Tribal transit services. FTA encourages States to use the increase in funding for rural transit under IIJA to support expansion of transit service to areas without service and to improve the level of service or coverage in areas that have minimal service.
2. METROPOLITAN, STATEWIDE, AND NON-METROPOLITAN PLANNING REQUIREMENTS. A State requesting Section 5311 or Section 5339(a) assistance must comply with the planning requirements of 49 U.S.C. 5303, 5304 and 5306. Projects proposed for Section 5311 and 5339(a) funding must be a product of the statewide and non-metropolitan transportation planning process and/or the metropolitan planning process specified in the joint FHWA/FTA planning regulations at 23 CFR Part 450 and 49 CFR Part 613.

MPOs that serve areas designated as a transportation management area (TMA) must include representation by providers of public transportation. Composed of local elected officials, appropriate State officials, and officials of public agencies that operate major modes of transportation in the region (including representation by providers of public transportation), the MPO is responsible for the development and adoption of the Metropolitan Transportation Plan (MTP) (minimum 20-year horizon) and the shorter term (minimum of four years) Transportation Improvement Program (TIP).

With limited exceptions, States must include all Federal funds to be used for highway or transit projects in a STIP consistent with 23 U.S.C. 135 and 49 U.S.C. 5304. States must include Section 5311 and Section 5339(a) funds in the STIP. Unlike the annual POP that the State submits with its grant application, the STIP must cover four program years. For purposes of the STIP, the State may group its planned expenditures of Section 5311, Section 5339, and RTAP funds into broad statewide projects, such as vehicle acquisition for rural transportation services; operating assistance; intercity bus projects; facility construction; State administration; and training and technical assistance. The State also may show the Section 5311 and Section 5339 apportionments as one aggregate project.

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All transit projects for which Federal funds are expected to be used and that are within metropolitan planning area (MPA) boundaries must be included in an MTP and TIP developed and approved by the MPO and approved by the governor of a State or States under the MPO's purview and must be included in a STIP that has been approved by FTA and FHWA. Projects listed in the TIP must be derived from and consistent with the MPO's MTP. Projects listed in the STIP must be derived from and consistent with the long-range statewide transportation plan.

Projects funded under other FTA programs that fall outside of MPA boundaries, such as under the Formula Grants for Rural Areas Program (49 U.S.C. 5311), are only required to be in the STIP. The grant application should identify the latest approved STIP (or amendments) containing the project(s), 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(s) within the appropriate Section of TrAMS. It is important to note that MPA boundaries are usually more extensive than the UZA boundaries to which they correspond. As such, projects funded under 49 U.S.C. 5311 or other rural programs may be located within MPA boundaries but not within a UZA boundary and may or may not need to be included in the MTP and TIP for the respective MPO. Recipients should contact their regional office for TIP requirements pertaining to specific transit projects.

MPO planning projects must be included in the UPWP. In addition, MPOs may reference planning projects in the TIP for informational purposes. Statewide and non-metropolitan planning projects must be included in the Statewide Planning Work Program (SPWP). These activities can be referenced in the STIP for informational purposes.

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

FTA and FHWA's joint planning regulations implementing Sections 5303, "Metropolitan Transportation Planning," and 5304, "Statewide and Non-Metropolitan Transportation Planning," are set forth at 23 CFR Part 450 and 49 CFR Part 613.

3. PERFORMANCE-BASED PLANNING. The planning statutes at Sections 5303 and 5304 provide a broad performance management program in both the metropolitan transportation planning and statewide and non-metropolitan transportation planning processes. The goals of the performance management framework are to improve project decision-making through performance-based planning and programming and to foster a transparent and accountable decision-making process for MPOs, States, and providers of public transportation.

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Sections 5303 and 5304 require MPOs and States to develop their long-range transportation plans and TIPs through a performance-driven, outcome-based approach to planning for the metropolitan and non-metropolitan areas of the State.

- a. Establishment of a Performance Based Approach. The statewide transportation planning process should provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in 23 U.S.C. 150(b), the program goals for 49 U.S.C. 5311 and 5339 in Chapter II, Section 2 of this circular, and the general purposes described in 49 U.S.C. 5301. In the development of the MTP and long-range statewide transportation plan, MPOs and States must include performance targets that address the transit safety and transit state of good repair (SGR) performance measures established by USDOT under 23 U.S.C. 150(c) and 49 U.S.C. 5329.

The State DOT's long-range transportation plans should also include a System Performance Report and subsequent updates evaluating the condition and performance of the transportation system with respect to the established performance targets (49 U.S.C. 5303(i)(2), 5304(f)(7)).

The MPO's TIP and State's STIP must demonstrate the linkage between investment priorities and the performance targets by including a discussion of the anticipated effect of the STIP/TIP toward achieving the performance targets established in the transportation plan.

For more information, see [Model Long-Range Transportation Plans: A Guide for Performance Based Planning](#).

- b. State Designation of Regional Transportation Planning Organizations (RTPOs). To carry out the statewide transportation planning process, a State may establish and designate RTPOs.

A State may establish and designate RTPOs to enhance the planning, coordination, and implementation of statewide long-range transportation plans and STIPs, with an emphasis on addressing the needs of non-metropolitan areas of the State.

If a State chooses not to establish or designate a RTPO, the State should consult with affected local officials in non-metropolitan areas to determine projects that may be of regional significance.

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

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4. INTERCITY BUS CONSULTATION REQUIREMENT. Section 5311(f) requires each State to expend at least 15 percent of its annual Section 5311 apportionment “to carry out a program to develop and support intercity bus transportation,” unless the governor certifies that “the intercity bus service needs of the State are being met adequately.” Additionally, Section 5311(f) requires a State to consult with intercity bus providers before the governor makes this certification. The requirement to spend at least 15 percent applies only to the amount of FTA’s annual apportionment of Section 5311 funds to the State; it does not apply to any funds the State subsequently transfers to its Section 5311 program from another program or to Section 5339 funds. Chapter IX provides additional information about the intercity bus provisions of Section 5311(f).
5. PROGRAM OF PROJECTS (POP). The POP identifies the projects and subrecipients for which the State is applying for financial assistance in a given fiscal year. The Section 5311 and Section 5339 annual POPs the State submits to FTA for approval must:
- Indicate the total number of projects and funding source (i.e., Section 5311 or Section 5339 or both);
  - Indicate the total number of subrecipients;
  - Identify each subrecipient and indicate whether they are governmental authorities, private nonprofit agencies, operators of public transportation, or intercity bus service; and
  - Identify any that are Indian tribal governments or tribal transit agencies (including both federally recognized and other tribal governments).

For each project, the POP must show a brief description of county or Tribal needs served, total project cost, and the Federal share.

FTA and its recipients must comply with the Federal Funding Accountability and Transparency Act (FFATA) of 2006, Pub. L. 109–282, enacted September 26, 2006, as amended by Section 6202 of Public Law 110-252 and implemented by 2 CFR Part 170. To comply, recipients must provide FTA with the following information for any subrecipient:

- The name of the entity receiving the award;
- The amount of the award;
- The location of the entity receiving the award; and
- The primary location of performance under the award, including the city, State, and congressional district.

The recipient is required to submit this information and may choose to submit this information as a separate attachment in TrAMS or include the information in the POP.

The total Federal funding level for the POP cannot exceed the total amount of Section 5311 and 5339 funds available, including funds from the current fiscal year apportionment,

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unobligated carryover funds from previous years and funds transferred from other FTA programs, or flexible funds for highway or transit. After the State submits the annual POP and one or more complete grant applications, FTA will review, approve, and obligate funds for the total amount of funds available. If the POP, as a whole, is incorporated into a single grant award, changes to it may necessitate an amendment or a budget revision based on the scope of work, scope of the proposed change, and other factors.

a. Categories of Approval. FTA's approval of a POP reflects neither unconditional approval of all projects within the program nor unconditional approval of all prospective subrecipients identified in the program. FTA recognizes that not all projects in a State POP may be at the same stage of development, and, therefore, not all applications to the State may be complete at the time the State forwards its annual POP to FTA. FTA also recognizes that all subrecipients identified in the POP may not yet be in compliance with all applicable Federal requirements. Therefore, to expedite award, FTA allows States to separate projects and funds included in its POP into two different categories, depending on how completely the subrecipients have met Federal requirements.

(1) Category A. Projects in Category A include those projects that the State has certified as having met all the Federal statutory and administrative requirements for approval applicable to both the project activities and subrecipient that will carry out those activities. FTA's approval of Category A projects is unconditional upon award. When the State executes the grant, the State may start drawing down funds to implement projects in Category A. FTA expects most, if not all, projects included in the State's POP to be in this category.

If there are funds that have not been advanced to Category A within the period of availability, FTA will deobligate and reallocate lapsed funds to the overall Section 5311 or Section 5339 program in a subsequent year apportionment.

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

Separate from the listing of rural transit projects and subrecipients in Category A and B, the POP should list together and subtotal the projects and subrecipients that support intercity bus transportation as required by Section 5311(f). It should also describe

specific RTAP projects within the broad areas of eligibility. (Chapter X provides more information on developing an RTAP POP). The POP also includes any funds the State will use for planning, technical assistance, and administration within the 10 percent limitation, as well as any other projects the State will carry out directly.

When the State determines that necessary Federal requirements have been satisfied for a project, FTA's approval of that project becomes unconditional, and the State may advance the project to Category A. Cash drawdowns for that project may commence after the State advances the project to Category A. In addition, any Category B project requires issuance of an NEPA record of decision (ROD), a finding of no significant impact (FONSI), or determination that the project meets the conditions of a categorical exclusion (CE) from FTA before being advanced to Category A. FTA Circular 5010.1F provides additional information on NEPA and other Federal environmental laws, regulations, and executive orders.

A State should not list any projects in Category B if it can list all its projects in Category A.

- b. Revisions to POP and TIP/STIP. Prior FTA approval is not required to reallocate funds among projects included in an approved POP so long as the single change does not modify the total amount of funds reflected in the original POP by more than 20 percent. Any other changes to the POP require prior approval by FTA.

If appropriate, revisions to the POP should be accompanied by a post-award modification to the applicable award in TrAMS. After written approval if required, the recipient should attach the revised POP to the project management section in TrAMS. In the annual Program Status Report, the recipient should reference the date that a new POP was attached. The most recently updated POP submitted by the recipient to FTA in its quarterly or annual report or in the course of making revisions will be considered the current approved POP, incorporated by reference in the grant agreement. Only the addition of Federal funds or a change in the scope of the approved POP requires amendment of the grant agreement. However, FTA may determine that an amendment is warranted to capture some changes and approvals.

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

- (1) Revisions Not Requiring Prior FTA Notification or FTA Approval. The recipient may make the following revisions without prior notification to FTA, so long as the original reservation of funds is not impacted:

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- (a) Delete a project from the POP if the project cost is less than 20 percent of the total cost of the affected POP and the recipient has confirmed the change is consistent with the applicable TIP/STIP;
  - (b) Advance projects from Category B to A, provided the prospective subrecipient is in compliance with all applicable Federal requirements;
  - (c) Reallocate funds within an approved POP among approved projects within a local area or from one local area to another, and the recipient has confirmed the change is consistent with the applicable TIP/STIP. This includes adjustments of local project funding levels to accommodate changes in project requirements;
  - (d) Add equipment or property transferred from one subrecipient to another subrecipient listed in the POP, regardless of whether the items were originally funded from a different award, so long as the change is consistent with the applicable TIP/STIP;
  - (e) Create new projects that are less than 20 percent of the total cost of the POP, so long as the recipient has confirmed eligibility and confirms the project is consistent with the TIP/STIP; and
  - (f) Delete or reduce a project cost by more than 20 percent of the total cost of the POP, so long as the recipient has confirmed the change is consistent with the applicable TIP/STIP.
- (2) Revisions Requiring Prior FTA Approval. A State may make the following revisions to an approved POP and relevant project listing in the TIP and STIP only after obtaining approval from FTA:
- (a) Prior FTA approval is required when the Federal share of the award exceeds \$100,000 and the cumulative amount of project funds to be transferred between or among activities (including all budget revisions since the last budget specifically approved by FTA) exceeds 20 percent of the total cost of the POP;
  - (b) Prior FTA approval is required when the revision would transfer funds between operating and capital categories, or between Activity Line Items with different Federal matching ratios; and

Prior FTA approval is required if the budget revision would:

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- 1 Change the size or physical characteristics of the activities specified in the award;
  - 2 Advance to Category A any prospective subrecipient with serious questions of compliance with Federal requirements remaining unresolved; or
  - 3 Advance to Category A any project for the acquisition of property with a value in excess of 20 percent of the total value of the POP.
- (3) FTA's Right to Defer Section 5311 Assistance. FTA reserves the right to require the State to defer providing Section 5311 funds to a subrecipient or project that raises serious questions about the compliance with civil rights or other requirements until FTA finds the subrecipient or project in compliance or expressly approves the expenditure of Section 5311 funds involving that subrecipient or project.
6. COORDINATED PLANNING. Two former FTA formula programs, JARC (previously Section 5316) and New Freedom (previously Section 5317), required that eligible projects be derived from a locally developed Coordinated Public Transit–Human Services Transportation Plan. The Section 5310 program continues to have this requirement.

This coordinated planning process is intended to create an inventory of area transportation services, identify gaps in transportation service for the affected transportation-disadvantaged populations, ascertain opportunities for human services program coordination, and establish funding priorities for those projects. This process is designed to be highly participatory by involving affected low-income individuals, persons with disabilities, and older adult populations in the development and approval of this plan.

MAP-21 repealed the Section 5316 JARC program, and a new tier of eligible activities was created for JARC projects under Sections 5307 and 5311. In addition, the Section 5317 New Freedom program was repealed, and a new tier of eligible activities was created for these project types under Section 5310. Beginning with funding apportioned for FY 2013, the requirement that eligible projects be derived from a locally developed Coordinated Public Transit–Human Services Transportation Plan only applies to the Section 5310 program.

Although the coordinated planning process is no longer required for JARC projects, FTA encourages public transit systems in all areas to continue to participate in the coordinated public transit–human services transportation planning process in order to identify and develop JARC projects for funding under Section 5311. This process gives affected populations direct participation in the formulation and approval of projects that are intended to serve them and provides an opportunity for a variety of public, private, and private-nonprofit transportation providers; non-DOT transportation programs; and other community



interests to likewise share their knowledge and participate in formulating projects and identify opportunities for coordination.

In addition, recipients should be aware that several other FTA requirements can be met through the use of the coordinated planning process. For example, Section 5311 requires that FTA not approve the State's POP unless FTA determines the POP provides for the maximum feasible coordination between public transportation service assisted with Section 5311 funds and transportation services assisted by other U.S. government sources (49 U.S.C. 5311(b)(2)). Additionally, the metropolitan planning requirements under Section 5303(g)(3)(B)(ii) require that recipients conduct planning in coordination with non-DOT funded nonemergency transportation services.

Public transit systems in rural areas and UZAs in which a recipient is applying for funds under Section 5310 are required to continue to participate in the coordinated public transit–human services transportation planning process.

States, MPOs, and recipients may choose to address this requirement through their existing coordinated planning process. Alternatively, States, MPOs, and recipients may develop a process that meets this coordination requirement and that includes a process for analyzing and documenting efforts to achieve efficiencies and service effectiveness through transportation coordination efforts.

The local coordinated planning process may also include consideration of the intercity bus transportation needs of the targeted population of seniors, individuals with disabilities, and low-income individuals. Identification of unmet intercity mobility needs of human services agency clients during the local coordinated planning process may help the State with its intercity bus needs assessment as described in Chapter IX. FTA encourages States to include intercity bus mobility needs in the coordinated planning process for Section 5310.

Although the coordination of service takes place at the local level, the State may facilitate coordination through participation in statewide interagency coordinating councils and statewide coordinated planning activities.

FTA Circular 9070.1H, “Enhanced Mobility of Seniors and Individuals with Disabilities Program Guidance,” provides more detailed guidance on the requirements for locally developed coordinated public transit–human services transportation plans.

7. AVAILABILITY OF FHWA “FLEXIBLE” FUNDS FOR TRANSIT PROJECTS.
  - a. Authority. Some funds appropriated to FHWA can be used to support transit and intercity bus projects, and some funds appropriated to FTA can be used to support highway projects. These “flexible” or “flex” funds may be transferred, under authority provided

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by 23 U.S.C. 104(f) and 49 U.S.C. 5334(i), between FHWA and FTA for eligible highway or transit projects (including intercity bus projects), respectively. 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 and which Federal agency will administer the funds. Flexible funds may only be used for activities eligible under both the transferring and receiving programs. Flexible funds transferred to FTA are administered under applicable FTA program requirements. Funding transfers are permitted only for projects contained in an approved metropolitan TIP and STIP, as applicable. In addition, like all other funds available under Sections 5307, 5310, 5311, and 5339, flex funds should only be used toward projects and activities identified in the final POP.

- b. Share Requirements. Pursuant to 23 U.S.C. 104(f)(1)(B) and 49 U.S.C. 5334(i)(2), flexible funds transferred to FTA require the same non-Federal matching share that such funds would require if administered by FHWA. For example, STBG funds (23 U.S.C. 133) are not covered by Section 5323(i)(1)(A), which allows for an 85 percent Federal share of the net project cost of vehicle acquisitions for purposes of complying with the ADA or CAA. The law requires that the FHWA Federal share requirements apply to STBG funds that are transferred to FTA to administer. In some cases, the Federal share of FHWA funds flexed to FTA may be subject to the upward sliding scale adjustment for States containing Federal and nontaxable Indian lands (23 U.S.C. 120(a-b)).
- 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, subject to the eligibility limitations and cost share limitations of the transferring program's funds. FHWA flexible funds that are transferred to FTA are administered and managed under the applicable FTA program requirements. However, to facilitate project delivery, public transportation and public transportation-related projects eligible for funding under FHWA's programs may be administered by FHWA, rather than FHWA transferring funds to FTA. 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 necessary approval from the applicable FHWA Division Office or FTA Regional Office. Regardless of which agency administers the funding, all transit projects are subject to the transit employee protection requirements at 49 U.S.C. 5333.
- d. Although flexible funds transferred to FTA are administered under the applicable FTA program requirements, flex funds may only be used for the purposes for which they were originally authorized. For example, STBG funds are not authorized to be used for transit operating expenses and, therefore, once transferred to an FTA recipient of Section 5307,

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5310, or 5311 funds, may not be used for operating assistance on public transportation projects, even though, in some cases, operating assistance is an eligible use of funds under these programs. However, certain public information and promotion expenses for vanpool programs, which are normally considered operating expenses by FTA, are permitted under STBG and may be undertaken using flex funds. In addition, CMAQ funds may be used for operating assistance under certain circumstances as indicated under Section (g)(3) below.

- e. Period of Availability. Flex funds transferred to FTA begin their period of availability at the time they are flexed to FTA and take on the period of availability of the FTA funding program to which they are transferred. For example, if funding is flexed to FTA's Section 5311 in FY 2024, these funds would be available for obligation for the year they were flexed plus two additional years, through September 30, 2026.
- f. Transfer to FHWA. Per 49 U.S.C. 5311(c)(3), certain Section 5311 funds may be transferred to FHWA for an eligible highway project. Section 5307, 5337, and 5339 funds are not eligible to be transferred to highway projects.
- g. Planning. FHWA funds authorized for the following programs may be transferred to FTA and used for authorized planning purposes under Section 5307:
  - (1) Metropolitan Transportation Planning, 23 U.S.C. 134; and
  - (2) Statewide and Non-metropolitan Transportation Planning, 23 U.S.C. 135.
- h. Planning Projects, Capital Projects, and Operating Expenses. Under 23 U.S.C. 104(f), FHWA funds authorized for the following programs may be transferred to a recipient of 5307 funds and used for public transportation planning, capital projects and activities, and operating expenses, if originally eligible for those purposes:
  - (1) STBG, 23 U.S.C. 133;
  - (2) National Highway Performance Program (NHPP), 23 U.S.C. 119;
  - (3) CMAQ, 23 U.S.C. 149;
  - (4) TA, 23 U.S.C. 133(h);
  - (5) Carbon Reduction, 23 U.S.C. 175;
  - (6) Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation Program (PROTECT), 23 U.S.C. 176; and
  - (7) Highway Safety Improvement Program (HSIP), 23 U.S.C. 148.

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- i. CMAQ Improvement Program (23 U.S.C. 149). States can use CMAQ funds apportioned under 23 U.S.C. 104(b)(4) for public transportation or highway projects that are likely to result in the reduction of emissions.
    - (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 specified types of projects, mostly targeting safety improvements, that include an air quality or congestion relief component (e.g., carpool/vanpool projects), as provided in 23 U.S.C. 120(c)(1), 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 Assistance. Section 149(m) of 23 U.S.C. authorizes States to obligate CMAQ funds apportioned under 23 U.S.C. 104(b)(4) for public transportation operating costs. Further, funds apportioned under 23 U.S.C. 104(b)(4) that are used for operating assistance shall have no limit on the duration of operations assisted in non-urbanized areas and in urbanized areas with a population of less than 200,000. In July 2014, FHWA published revised interim guidance on CMAQ operating assistance under MAP-21 that is available on [FHWA's website](#). With the noted exception to time limitations in non-urbanized areas and in urbanized areas with a population of less than 200,000, this guidance is controlling until such time as FHWA issues updated final guidance.

## 8. TRANSIT ASSET MANAGEMENT REQUIREMENTS.

- a. Introduction. Federal law requires Federal transit and Federal-aid highway programs to use performance-driven, outcome-based approaches to transportation planning. This also includes requirements for transit asset management (TAM) to assist the Nation's transit systems in assessing their capital needs and prioritizing capital investments to achieve SGR. The TAM provisions are codified at 49 U.S.C. 5326 and are applicable to all FTA recipients. The rule implementing the National TAM System was published in July 2016 and can be found in 49 CFR Part 625.

The National TAM System has five elements:

- (1) The term “state of good repair” (SGR) is defined as the condition in which a capital asset is able to operate at a full level of performance. This is measured through objective standards, as detailed at 49 CFR Part 625 subpart D.
- (2) The establishment of performance measures are based on these SGR standards, and each FTA recipient must annually set performance targets for improving the condition of capital assets (49 CFR Part 625 subpart D).
- (3) Each FTA recipient and subrecipient must develop and carry out a TAM plan or participate in a group TAM plan in accordance with 49 CFR Part 625 subpart C.
- (4) Reporting requirements in accordance with 49 CFR Part 625 subpart E.
- (5) FTA provides technical assistance to those affected by these requirements, including analytical processes or decision support tools that allow recipients to estimate capital investment needs over time and assist recipients with asset investment prioritization (49 U.S.C. 5326(b)(4) and (5)).

- b. TAM Plan Requirements. FTA’s implementing regulations for development of TAM plans at 49 CFR Part 625 subpart C define two tiers of public transportation providers that determine whether providers must develop their own TAM plan or participate in a group TAM plan. Subpart C also includes the required contents of the respective TAM plans.

Tier I providers are recipients that own, operate, or manage either (1) 101 or more vehicles in revenue service during peak regular service across all fixed-route modes or in any one non-fixed-route mode or (2) rail transit. Tier 1 providers must develop and carry out their own TAM plan that includes each element listed under 49 CFR 625.25(b).

Tier II providers are (1) recipients that own, operate, or manage 100 or fewer vehicles in revenue service during peak regular service across all non-rail fixed-route modes or in any one non-fixed-route mode, (2) a subrecipient under the 5311 Rural Area Formula Program, or (3) any American Indian Tribe. Tier II providers must either develop their own TAM plan or participate in a group TAM plan that includes each element listed under 49 CFR 625.25(b)(1) through (4).

For more information on the responsibilities of recipients for developing required TAM plans, consult 49 CFR Part 625 subpart C or FTA’s [TAM Plans web page](#).

- c. Planning Requirements. 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)).

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9. PUBLIC TRANSPORTATION SAFETY REQUIREMENTS.

Title 49 U.S.C. 5329 provides FTA the authority to establish a comprehensive framework to oversee the safety of public transportation throughout the United States. Section 5329 requires, among other things, that FTA issue a National Public Transportation Safety Plan to improve the safety of all public transportation systems that receive Federal transit funds. Section 5329(b) requires the National Public Transportation Safety Plan to include safety performance criteria for all modes of public transportation; a definition of “state of good repair;” minimum safety performance standards for public transportation vehicles used in revenue operations; minimum safety standards to ensure the safe operation of public transportation systems; and a safety certification training program. The National Public Transportation Safety Plan was updated with IJA requirements and can be found on [FTA’s website](#).

- a. Public Transportation Safety Certification Training Program (PTSCTP). Section 5329(c) requires FTA to establish a PTSCTP. FTA published the PTSCTP final rule at 49 CFR Part 672. This program applies to Federal personnel, State personnel, and contractors who conduct safety audits and examinations of rail fixed guideway public transportation systems, as well as designated personnel and contractors who are directly responsible for safety oversight of a recipient’s rail fixed guideway public transportation system.
- b. State Safety Oversight (SSO) Program (Rail). Section 5329(e) requires States with rail fixed guideway public transportation systems to create SSO programs and submit them to FTA for certification. FTA published the SSO final rule at 49 CFR Part 674.
- c. Public Transportation Agency Safety Plans (PTASP). Public transit agencies that only receive Section 5311 funds or receive both Section 5310 and Section 5311 funds are not required to develop a PTASP. Public transit agencies that receive Section 5311 funds and that also receive formula funds apportioned to a UZA (such as Section 5307) as a Direct Recipient must develop a PTASP. These agencies must establish comprehensive agency safety plans for their public transportation operations and certify that the recipient or State has established a comprehensive agency safety plan. FTA published the PTASP final rule at 49 CFR Part 673. Recipients and subrecipients to which this requirement applies are encouraged to review FTA’s PTASP guidance.

10. ENVIRONMENTAL CONSIDERATIONS.

All projects seeking FTA financial assistance require compliance with NEPA implementing regulations (40 CFR Parts 1500–1508); FTA’s Environmental Impact and Related Procedures (23 CFR Part 771); Efficient Environmental Reviews for Project (23 U.S.C. 139); and numerous other environmental laws, regulations, and orders, such as Section 106 of the

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National Historic Preservation Act (36 CFR Part 800), the Clean Water Act, and the Endangered Species Act.

Project Sponsors should consult with the FTA Regional Office early in project development to identify the appropriate class of action (CE), environmental assessment (EA), or environmental impact statement (EIS) for the NEPA review and any other environmental requirements. Project Sponsors may 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 combined final EIS/ ROD or a Final EIS (FEIS) and ROD, a FONSI, or a CE. Property acquisition, other than early acquisition that must generally either fall under FTA's corridor preservation statute (49 U.S.C. 5323(q)) or qualify as a hardship or protective buy CE (23 CFR 771.118(d)(3)), as determined in close consultation with FTA staff, may not take place until a combined FEIS/ROD, ROD, FONSI, or CE is issued.

11. PRE-AWARD AUTHORITY. FTA allows recipients to incur costs before grant award for formula programs. In order for the pre-award costs to be eligible for subsequent reimbursement, the project must be approved in the STIP, outlined in the grant application, and specific pre-award costs included in the initial FFR. The project also must have met all FTA statutory, environmental, procedural, and contractual requirements, and thus must qualify as a "Category A" project in the POP. Reimbursement is subject to the availability of funds and grant agreement. Specific information is included in FTA's annual apportionment notice.

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## CHAPTER VI

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

1. **GENERAL**. The basic grant management requirements are contained in the provisions of 2 CFR Part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” sometimes referred to as the “Uniform Guidance.”

The Uniform Guidance provides that a State will use, manage, and dispose of equipment acquired by the State with a Federal award in accordance with State laws and procedures (under 2 CFR 200.313(b)). Subrecipients of States shall follow policies and procedures allowed by the State with respect to the use, management, and disposal of equipment acquired with Federal assistance (2 CFR 1201.313). However, there is a statutory exception to this requirement under 49 U.S.C. 5334(h)(4) for rolling stock, equipment, and aggregate supplies that have met their minimum useful life. Please refer to FTA Circular 5010.1F, “Award Management Requirements,” for specific requirements and guidance.

Unless an issue is specifically addressed in this circular or in other FTA guidance specific to the Section 5311 or Section 5339 programs, FTA Circular 5010.1F should be used as guidance for project management issues not unique to Section 5311 or 5339. In cases where there is a discrepancy between this circular and FTA Circular 5010.1F, this circular prevails. Please reference [FTA’s website](#) for a complete listing of FTA programs and their [current FTA circulars](#).

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

When vehicles or other equipment acquired with Section 5311 or Section 5339 funds are operated by an entity other than the subrecipient, control and responsibility for the operation of the vehicles or other equipment must remain with the subrecipient unless transfer of the control and responsibility is made to another subrecipient authorized by the designated State agency to accept control and responsibility for those vehicles or equipment.

3. **STATE FINANCIAL RECORDS**. FTA does not maintain detailed financial records on individual projects within a POP. Financial records, supporting documentation, and all other records pertinent to an award must be retained by the designated State agency and by each subrecipient(s) and must be made readily available to authorized representatives of the



USDOT and the comptroller general of the United States for a period of three years from the date the State electronically submits the final FFR (SF 425). If any litigation, claim, or audit is started before the expiration of the three-year period, the records must be retained beyond three years, until all litigation, claims, or audit findings involving the records have been resolved.

The State's financial records should adequately document the computation of the Federal share and the provision of the required local share for each kind of project. The eligibility of any ADA or CAA project for which the increased Federal share is claimed should be adequately documented.

4. CONSTRUCTION MANAGEMENT AND OVERSIGHT. The responsibility for construction management and oversight lies with the State. FTA does not approve design plans for construction projects by subrecipients.
5. REPORTING REQUIREMENTS. When the award is active, the recipient must comply with post-award reporting requirements. FTA's policy for reporting requirements may vary based on risk, including the size of the recipient or the type or amount of Federal assistance the recipient receives, past performance, and experience. The award may include special reporting requirements. These are typically identified by program and may be included in Federal Register notices, apportionment notices, and program circulars. For more information about post-award reporting requirements, please see FTA Circular 5010.1F. Please contact the FTA regional point of contact with questions regarding the applicability of reporting requirements.
  - a. Annual Program of Projects Status Reports. By October 31 each year, the State shall submit to FTA a Program Status Report for each active grant, covering the twelve-month period ending September 30. Status reports are intended to meet minimal program information needs at the regional and national levels. Reports should include an updated POP for each approved grant that contains active projects. The updated POP should reflect revised project descriptions, changes in projects from one category to another, and adjustments within budget categories. The updated POP can be attached in the electronic status report. If revisions to the POP result in changes to the line-item budget for the grant, these changes should be submitted as budget revisions. Significant civil rights compliance issues occurring during the year (such as Title VI, Equal Employment Opportunity (EEO), or Disadvantaged Business Enterprises (DBE) complaints against the State or subrecipients) should be addressed in the annual status report. In addition, the State may report notable accomplishments or problems involving Section 5311 and 5339 subrecipients.
6. STATE MANAGEMENT PLAN. The SMP is a document that describes the State's policies and procedures in administering the Section 5311 and Section 5339 programs. All States are

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required to have an SMP approved by and on file with the appropriate FTA Regional Office. Additions or amendments to the SMP must be made and submitted to FTA whenever a State significantly changes its management of the program or when new program management requirements are imposed by FTA. Changes may be required as the result of a State Management Review by FTA.

7. FTA STATE MANAGEMENT REVIEW. FTA's administration of Section 5311 results in relatively little Federal involvement in the day-to-day program activities or in the review of individual applications from subrecipients. To ensure that the program objectives are being carried out, the FTA Regional Office, with contractor assistance, conducts State Management Reviews every three years or as circumstances warrant. The review includes an inspection of documentation on file at the FTA Regional Office, a visit to the State offices to examine the procedures the State uses in administering the program, and local subrecipient site visits. While the focus of the review is compliance with Section 5311 requirements, the reviews may include Section 5339 grants and other grant program funds obligated to a State. Local site visits to the State's subrecipients are selected at random and are meant to evaluate the State's effectiveness in meeting Federal requirements and its own SMP (discussed in Chapter VII). The review assesses the accuracy and adequacy of the SMP and may result in recommendations for changes to the SMP. A draft report with preliminary findings is presented at an exit conference. The State has an opportunity to comment on the report and to take corrective actions before a final report is issued. The Regional Office follows up on required corrective actions in the final report.

FTA periodically conducts State Management Review workshops to help States understand the Federal requirements being reviewed and to provide technical assistance. Contact the appropriate FTA Regional Office for a current schedule of workshops.

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

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## CHAPTER VII

### STATE MANAGEMENT PLAN

1. GENERAL. The SMP is a document that describes the State's policies and procedures for administering the State-managed portions of FTA's Section 5311, 5310, and 5339 programs. Each State is required to have an approved SMP on file with the appropriate FTA Regional Office or Metropolitan Office and to update it regularly to incorporate any changes in program management or new requirements. The State shall provide an opportunity for review by stakeholders when it develops a new plan or significantly revises an existing plan. The State may include the required SMP for Section 5311, 5310, and 5339 programs in a single document or separate documents. States that have expended all their Section 5316 (Job Access Reverse Commute) and Section 5317 (New Freedom) funds awarded prior to 2013 may remove those programs from their SMPs. Certain contents of the SMP, such as the project selection criteria, should be coordinated with the long-range statewide transportation plan required by 49 U.S.C. 5304(f).
2. PURPOSE. The SMP is intended to facilitate both State management and FTA oversight by documenting the State's procedures and policies for administering FTA programs in a single document. The SMP should be a document that is useful to the State and subrecipients, as well as to FTA. At a minimum, this document must include the State's objectives, policies, procedures, and administrative requirements in a format readily accessible to potential subrecipients, State staff, FTA, and the public. The SMP's primary purposes are to serve as the basis for FTA State-level management reviews of the program and to provide public information on the State's administration of FTA programs. It may also be used internally by the State as a program guide for local project applicants. If the State has other relevant documentation that provides the same information requested for the SMP, such as an annual application instructions manual, this documentation may be included by reference, as an attachment.
3. STATE MANAGEMENT PLAN CONTENT. While FTA does not prescribe a format for the SMP, the plan should address the following topics and provide the information as requested for each topic below.
  - a. Program Goals and Objectives.
    - Describe the philosophy and policy underlying the State's management of the Section 5311, 5310, and 5339 programs.
    - Include a description of any process that exists for tracking program goals described in Chapter II, Section 2, of this circular and establishing long-term goals for

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providing rural public transportation in rural areas of the State, including the State's process for long-range planning and consultation with rural elected officials.

b. Roles and Responsibilities.

- Specify the agency designated by the governor to administer the Section 5311, 5310, and Section 5339 programs.
- Explain the respective roles and responsibilities of the State agency and its subdivisions; other State agencies or review boards; local governments; private providers; local applicants; and other involved parties.
- Include a brief discussion of the statewide long-range transportation planning process.

c. Coordination.

- Describe how the State coordinates with other agencies at the State level and encourages and enhances coordination at the project level. This could include a description of any State level coordinating mechanisms, legislation, review boards, and State policies that encourage or mandate coordination at the local level.

d. Eligible Subrecipients.

- Describe which entities may apply to the State for funds as subrecipients and what kinds of projects the State may conduct itself as primary recipient.
- Identify any way in which State eligibility is more restrictive than Federal eligibility.
- Describe methods for participation by other entities, including private for-profit providers such as taxicab companies or intercity bus operators.

e. Eligible Services and Service Areas.

- Describe eligible services and service areas, including any limitation the State imposes in addition to Federal rules. The definition of transit service area is a State and local decision.
- Include here any State policies and procedures related to the provision of service to destinations outside the State.

f. Eligible Assistance Categories.

- Describe eligible assistance categories, particularly when more explicit or more restrictive than Federal categories.
- Include any restrictions on eligible expenses and the State's policy on allocation of costs between administrative, operating, planning, and capital expenses.

g. Local Share and Local Funding Requirements.

- Describe the State's policies on provision of local share.
- Include any State programs that provide matching funds for Sections 5311, 5310, and 5339.

h. Project Selection Criteria and Method of Distributing Funds.

- Describe the State's criteria for selecting projects and distributing funds fairly and equitably among various applicants for funding, including Tribal governments and other entities serving American Indian populations and Alaska Native Tribes. Whether the State uses a formula for allocation, imposes its own limitations on use of the funds (e.g., capital only), or uses an entirely discretionary selection process, the plan should explain the policy rationale and the methods used. This description should cover the State's procedures for assuring equity of distribution of benefits among groups within the State, as required by Title VI of the Civil Rights Act of 1964.
- Describe the State's procedures for coordinating with the MPO responsible for project selection in any designated TMA within the State.

i. Intercity Bus Transportation.

- Describe the State's procedures for implementing Section 5311(f), which requires the State to expend no less than 15 percent of its annual Section 5311 apportionment for the support of intercity bus transportation, unless the governor certifies that the State's intercity bus service needs are adequately met.
- Describe the State's process for consultation with private intercity bus operators and any other public participation process in connection with a certification that needs are adequately met.
- Describe the State's process for assessing intercity bus mobility needs in the State.
- Describe the State's process for the development and integration of intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities.
- Describe the State's process for consideration of the role that intercity buses may play in reducing congestion, pollution, and energy consumption in a cost-effective manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated.
- Also, if the in-kind provision is used for local match, the State must document the process used to validate the source of the in-kind match and the unsubsidized segment of the intercity bus service.

j. Program of Projects Development and Approval Process.

- Describe the State's process and timetable for soliciting, reviewing, and approving applications for local projects to be included in the State's annual POP for Sections 5311 and 5339. The SMP may include instructions to potential subrecipients on how to prepare local project applications.

k. Fund Transfers.

- Describe any policy the State has for transferring Section 5307 and/or 5311 apportionments between small urbanized and rural areas.
- Describe any policy the State has for transferring Section 5339 National Distribution funds to the Section 5307 or Section 5311 funds.

l. State Administration and Technical Assistance.

- Describe the planning resources and technical and management assistance the State makes available to local areas.
- Describe how the State uses Section 5311 funds within the 10 percent limitation for administration, planning, technical assistance, and research.
- Distinguish between the use of funds for State administration and the State RTAP allocation, and describe any additional resources used for these purposes.

m. State Rural Transportation Assistance Program.

- Describe the State's procedures for administering its State RTAP funds, including project selection criteria, any local match requirements imposed by the State, goals and objectives, and methods for involving operators in program development and implementation.

n. Private Sector Participation.

- Describe the State's procedures for providing for maximum feasible participation by private providers of public transportation.

o. Civil Rights.

- Describe how the State meets Federal civil rights requirements and monitors subrecipients to ensure compliance with the requirements of Title VI, EEO, and DBE. The SMP must include Title VI requirements detailed in FTA Circular 4702.1B, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," including the State's efforts to assist minority applicants and to include subrecipients serving significant minority populations.

p. Maintenance.

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- Describe any maintenance plans and procedures required of subrecipients for vehicles and facilities, including maintenance of ADA accessibility features.
- q. Charter Rule.
- Describe the State's procedures for complying with the charter regulation (49 CFR Part 604).
  - Include the process used to ensure subrecipients are in compliance with the charter regulation and any agreements the State has with registered charter providers.
- r. Section 504 and ADA Reporting.
- Describe the State's method for monitoring subrecipients' compliance with Section 504 of the Rehabilitation Act of 1973, ADA regulations, and for processing the plans, reports, and certifications submitted to it under the provisions of those regulations.
- s. NTD Reporting.
- Describe the State's method for collecting and reporting the data elements specified in the annual NTD reporting requirements (49 U.S.C. 5335(b)).
- t. State Program Management.
- Describe how the State administers its program management responsibilities in such areas as procurement; financial management; property management; vehicle use; maintenance and disposition; accounting systems; audit; and closeout.
  - In addition, include any State procedures for management or financial reviews and project monitoring or on-site reviews.
  - Describe any standards set by the State for matters such as productivity, cost-effectiveness, or service standards.
  - Detail any State reporting requirements.
- u. Other Provisions.
- Describe the process by which the State complies with other Federal requirements such as the employee protection provisions of Section 5333(b); NEPA and other Federal environmental laws, regulations, and executive orders; Buy America provisions; pre-award and post-delivery reviews; prohibition of exclusive school transportation; and drug and alcohol testing, including the State's procedures for monitoring compliance by subrecipients.
4. STATE MANAGEMENT PLAN REVISIONS. All States must have an SMP approved by FTA on file with FTA's Regional Office. An approved SMP remains valid until (1) FTA

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approves a later plan submitted by the State, (2) an FTA State Management Review results in a specific request to the State by FTA for a revised SMP, or (3) FTA announces significant new program changes. FTA strongly encourages the State to issue timely revisions to the SMP, particularly when information helpful to minority applicants, subrecipients, and third-party contractors is involved. When the State proposes significant revisions to the SMP, it should give, at minimum, potential subrecipients of assistance, potential service providers, other State agencies and representatives of other funding sources, and any relevant State associations and professional organizations an opportunity to comment.

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

The State should review the SMP to make sure it reflects the current requirements of this FTA Circular 9040.1H and revise the SMP as necessary.



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## CHAPTER VIII

### APPALACHIAN DEVELOPMENT PUBLIC TRANSPORTATION ASSISTANCE PROGRAM

1. PROGRAM SUMMARY. Title 49 U.S.C. 5311(c)(3) authorizes the ADTAP, which allocates funds by statutory formula (see Formula Allocations section below). This program is funded with a takedown from the Section 5311 program to provide additional funding to States in the Appalachian region of the United States. FTA apportions the funds to designated States (see Eligible Recipients section below) for purposes eligible under Section 5311, including capital, operating, planning, JARC projects, and administrative costs.

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

2. PROGRAM OBJECTIVES. While this program is funded under FTA's Section 5311 program, the national program objective is delivery of safe, reliable public transportation services to rural areas in the Appalachian region. Consistent with the objectives of the Section 5311 program, funds should enhance access to health care, shopping, education, employment, public services, and recreation.
3. ELIGIBLE RECIPIENTS AND SUBRECIPIENTS. Eligible rural recipients under the ADTAP include 13 States located in the Appalachian region: Alabama; Georgia; Kentucky; Maryland; Mississippi; New York; North Carolina; Ohio; Pennsylvania; South Carolina; Tennessee; Virginia; and West Virginia, as defined under 40 U.S.C. 14102. Subrecipients of ADTAP funding include State or local governmental authorities, nonprofit organizations, and operators of public transportation services.
4. ELIGIBLE SERVICES AND SERVICES AREAS. A service area must be located in the Appalachian region to be eligible for funds. (Please see Table VIII-1: Eligible States and Counties in the Appalachian Region below.)

**Table VIII-1: ELIGIBLE STATES AND COUNTIES IN THE APPALACHIAN REGION**

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

State	Counties
<b>Pennsylvania</b>	Allegheny; Armstrong; Beaver; Bedford; Blair; Bradford; Butler; Cambria; Cameron; Carbon; Centre; Clarion; Clearfield; Clinton; Columbia; Crawford; Elk; Erie; Fayette; Forest; Fulton; Greene; Huntingdon; Indiana; Jefferson; Juniata; Lackawanna; Lawrence; Luzerne; Lycoming; McKean; Mercer; Mifflin; Monroe; Montour; Northumberland; Perry; Pike; Potter; Schuylkill; Snyder; and Somerset
<b>South Carolina</b>	Anderson; Cherokee; Greenville; Oconee; Pickens; and Spartanburg
<b>Tennessee</b>	Anderson; Bledsoe; Blount; Bradley; Campbell; Cannon; Carter; Claiborne; Clay; Cocke; Coffee; Cumberland; DeKalb; Fentress; Franklin; Grainger; Greene; Grundy; Hamblen; Hamilton; Hancock; Hawkins; Jackson; Jefferson; Johnson; Knox; Lawrence; Lewis; Loudon; Macon; Marion; McMinn; Meigs; Monroe; Morgan; Overton; Pickett; Polk; Putnam; Rhea; Roane; Scott; Sequatchie; Sevier; Smith; Sullivan; Unicoi; Union; Van Buren; Warren; Washington; and White
<b>Virginia</b>	Alleghany; Bath; Bland; Botetourt; Buchanan; Carroll; Craig; Dickenson; Floyd; Giles; Grayson; Henry; Highland; Lee; Montgomery; Patrick; Pulaski; Rockbridge; Russell; Scott; Smyth; Tazewell; Washington; Wise; and Wythe Note: The following independent cities in Virginia are also within the Appalachian Region: Bristol; Buena Vista; Covington; Galax; Lexington; Martinsville; Norton; and Radford.
<b>West Virginia</b>	All counties: Barbour; Berkeley; Boone; Braxton; Brooke; Cabell; Calhoun; Clay; Doddridge; Fayette; Gilmer; Grant; Greenbrier; Hampshire; Hancock; Hardy; Harrison; Jackson; Jefferson; Kanawha; Lewis; Lincoln; Logan; Marion; Marshall; Mason; McDowell; Mercer; Mineral; Mingo; Monongalia; Monroe; Morgan; Nicholas; Ohio; Pendleton; Pleasants; Pocahontas; Preston; Putnam; Raleigh; Randolph; Ritchie; Roane; Summers; Taylor; Tucker; Tyler; Upshur; Wayne; Webster; Wetzel; Wirt; Wood; and Wyoming

Note: The map of designated States and counties in the Appalachian Region is available on the [ARC's website](#).

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5. FORMULA ALLOCATIONS. FTA apportions ADTAP funds to designated States by a statutory formula based on the guidelines established under section 9.5(b) of the Appalachian Regional Commission Code. The allocation includes each State's remaining estimated need to complete eligible sections of the Appalachian Development Highway System (ADHS) as determined from the latest available cost estimates for completion of the system. Cost estimates are produced at approximately five-year intervals. Allocations contain upper and lower limits in amounts or percentages to be determined by the Commission and are made in accordance with legislative instructions.
  6. FUNDS AVAILABILITY. Appalachian Development Program funds are available for the fiscal year in which they are apportioned plus two additional fiscal years. If the State does not obligate its allocation during this period, FTA reallocates the funds by formula among the States that are eligible to receive this funding.
  7. ELIGIBLE PROJECTS, LOCAL SHARE, AND PLANNING REQUIREMENTS. All requirements and eligibilities for Section 5311 apply to ADTAP funds.
  8. PROGRAM ADMINISTRATION. The ADTAP funds are a separate allocation but are apportioned annually and can be combined in the regular Section 5311 grant application, as long as the State DOT accounts for the use of ADTAP funds in the POP. In order to maximize Section 5311 program funding, an eligible State should use ADTAP formula funding as the funding source for selected rural transit projects within the designated Appalachian region. Section 5311 funds should be used to address needs not covered by the ADTAP allocation.
  9. TRANSFER PROVISIONS. States that are eligible for the ADTAP may use amounts that cannot be used for operating expenses for a highway project if the governor approves the use in writing after appropriate notice and an opportunity for comment and appeal is provided to affected public transportation providers in the Appalachian region. The governor must certify that the local transit needs are being addressed. In order for FTA to consider the transfer, a State must provide to the FTA Regional Office or Metropolitan Office documentation that includes a description of the consultation used and certification by the local providers (i.e., State, local transit operators, and local RTPO, if applicable) that all local operating needs are met. Upon receipt, FTA will review the request and, if approved, will transfer the funds consistent with FTA's transfer process (please see Transfer Provisions section of this circular).

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## CHAPTER IX

### INTERCITY BUS

1. PROGRAM SUMMARY. Section 5311(f) of 49 U.S.C. requires each State to spend 15 percent of its annual Section 5311 apportionment “to carry out a program to develop and support intercity bus transportation,” unless the governor certifies that “the intercity bus service needs of the State are being met adequately.” Section 5311(f) requires a State to consult with intercity bus providers before seeking a governor’s certification. The consultation requirements are discussed in Section 4 of this chapter. The required percentage applies only to the amount of FTA’s annual apportionment of Section 5311 funds to the State. The required percentage does not apply to any funds the State subsequently transfers to its formula grants for the rural area program from another program (such as Section 5307).
2. PROGRAM OBJECTIVES. In many States, intercity bus service is a vital link between otherwise isolated rural communities and the rest of the Nation. Historically, major intercity bus carriers abandoned less productive routes. Patronage in rural areas, however, is important to the continuing viability of the remaining intercity routes. One objective of the funding for intercity bus service under Section 5311, therefore, is to support the connection between rural areas and the larger regional or national system of intercity bus service. Another objective is to support services to meet the intercity travel needs of residents in rural areas. A third objective is to support the infrastructure of the intercity bus network through planning and marketing assistance and capital investment in facilities. FTA encourages States to use the funding under Section 5311(f) to support these national objectives and priorities determined by the State.
3. PROGRAM PLANNING. State transportation plans and transportation improvement programs must provide for intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities. State plans must also demonstrate consideration of the role that intercity buses may play in reducing congestion, pollution, and energy consumption in a cost-effective manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated. States’ Section 5311(f) planning must comply with these requirements.
4. GOVERNOR’S CERTIFICATION. A State is required to expend at least 15 percent of its apportionment for an intercity bus program, unless “the Governor of the State certifies to the Secretary, after consultation with affected intercity bus service providers, that the intercity bus service needs of the State are being met adequately.”

The statutory provision for certification by the governor requires a statewide assessment of intercity bus service currently available and of any existing needs. The legislative history

indicates that the assessment of intercity bus needs may be made relative to other rural needs in the State. A State certifying that its needs are adequately met must demonstrate that it has assessed statewide intercity bus mobility needs no more than four years before the date of the certification. In the SMP, the State must document its consultation process and any process that it develops for periodically assessing statewide needs. FTA will evaluate evidence that the State has followed its process in State Management Reviews approximately every three years.

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

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

The governor of the State or an authorized designee must sign a certification letter addressed to the relevant FTA Regional Administrator. The letter should include sufficient information regarding the consultation process and needs assessments in order to demonstrate that the certification is supported by the results of the process. In addition, in its oversight activities, FTA will examine the basis for a governor's certification. The assurance the State makes as part of the annual Certifications and Assurances that it will meet the requirements of Section 5311(f) is not a substitute for a certification by the governor that the needs are met adequately if the 15 percent minimum is not attained. Appendix B provides a sample certification letter.

## 5. CONSULTATION PROCESS REQUIREMENTS.

- a. "Consultation" is defined in the joint FHWA FTA Planning Regulations, 23 CFR 450.104, as "one party confers with another identified party in accordance with an established process and, before taking action(s), considers that party's views and

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periodically informs that party about action(s) taken.” For the purposes of this provision, FTA has adopted this definition of consultation.

The State’s intercity bus consultation process must include the following elements:

- (1) Identification of intercity bus providers in the State;
- (2) Activities the State will perform as part of consultation with identified providers and intercity bus organizations;
- (3) An opportunity for intercity bus providers to submit proposals for funding as part of the State’s distribution of its annual apportionment;
- (4) A direct correlation between the results of the consultation process and a determination that the State’s intercity bus service needs are being met adequately; and
- (5) Transparency as to the State’s required intercity bus plans and processes and an opportunity for intercity bus operators to be involved in the development of those plans.

In developing the consultative process elements mentioned above, FTA suggests consideration of the following ideas, many of which are drawn from [Transportation Cooperative Research Program \(TCRP\) Report 79, “Effective Approaches to Meeting Rural Intercity Bus Transportation Needs”](#):

- b. Identifying Private Intercity Bus Carriers. Intercity bus carriers serving a State can be identified from several sources, including:
  - (1) Websites of private intercity bus operators;
  - (2) Bus industry directories;
  - (3) State regulatory agency listings; and
  - (4) Trade associations, such as the American Bus Association and the United Motorcoach Association.
- c. Consultation Activities.
  - (1) Inform intercity bus carriers of the State’s rural planning process and encourage their participation in that process, and where a State is considering possible certification of needs being met adequately, provide an opportunity to submit

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comments and/or request a public meeting to identify unmet needs and discuss proposals for meeting those needs.

- (2) Include intercity bus providers' participation in scheduled meetings, such as State agency transit meetings and public transit conferences.
- (3) Meet with individual intercity bus providers periodically.
- (4) Notify providers either through direct mail or advertisements in various locations around the State about availability of funds for the current year's intercity bus program.
- (5) Inform intercity bus providers about the development of local, coordinated public transit-human services transportation plans required by Section 5310 and encourage intercity bus provider participation.
- (6) Solicit comments through direct mail and advertisements in newspapers in various locations around the State of the State's intent to certify needs are being met adequately unless needs are identified.

d. Available Resources for Assessment and Analysis of Intercity Bus Needs. It is appropriate and conducive for the State to work in partnership with the American Bus Association and/or carriers individually in periodic assessment of needs, including meaningful connections to the national intercity bus network.

- (1) Include an assessment of intercity bus needs in the development of coordinated public transit-human services transportation plans.
- (2) Include intercity bus transportation in statewide long-range planning.
- (3) Use Section 5311 State administration funds, statewide planning apportionments, or State RTAP allocations for periodic statewide assessments of needs.

6. IN-KIND MATCH FOR INTERCITY BUS. Section 5311(g)(3)(F) provides that in the case of an intercity bus project that includes both feeder service and an unsubsidized segment of intercity bus service to which the feeder service connects, the local match "may be derived from the costs of a private operator for the unsubsidized segment of intercity bus service, including all operating and capital costs of such service whether or not offset by revenue from such service as an in-kind match for the operating costs of connecting rural intercity bus feeder service funded under 5311(f)." See FTA Circular 5010.1F for more general information concerning in-kind match requirements.



- a. Defining the FTA-Assisted Project. To use the project cost provided by a private operator as in-kind match, the FTA-assisted project must be defined as including both the feeder service and an unsubsidized segment of the intercity bus network to which it connects.
- b. Sources of In-Kind Match. The unsubsidized private operator costs can be used as the local match only “if the private operator agrees in writing to the use of the costs of the private operator for the unsubsidized segment of intercity bus service as an in-kind match” (Section 5311(g)(3)(F)).
- c. Cost Allowable as In-Kind Match. In order to be eligible to be used as in-kind match, a cost must be allowable under the project. To be eligible under Section 5311, the project costs contributed by a private operator as in-kind match must connect the rural community to further points.
- d. Calculating the Allowable In-Kind Match Cost of the Private Operator. The cost to operate the connecting service determines the amount of available match.

Following is an example of how to calculate the amount of available match:

**A is a rural area that requires feeder service to connect to intercity bus service that runs from B (intercity stop) to C (intercity stop).**

- Miles from A □ B = 100 miles feeder service
- Miles from B □ C = 150 miles unsubsidized intercity bus service
- Miles from A □ B □ C = 250 miles
- Days of service = 365 days
- Trips made per day = 2 trips
- Cost per mile = \$1.00

**Summary of calculations:**

- 150 (miles from B □ C) x 365 (days of service) x 2 (trips/day) x \$1 (cost per trip) = \$109,500 is available for in-kind match. (This total represents the match for an award to operate a feeder service from point A □ B.)
  - Assuming a 50/50 match, up to \$109,500 of Section 5311(f) funding can be used for the feeder service. The Federal share may be different if a State is eligible to use the sliding scale match ratios.
- e. Excess or Insufficient In-Kind Match. If there is excess in-kind match available from the project costs of the private provider, it cannot be used to increase the Federal share above the actual operating deficit of the project. Further, it should be noted that in-kind match is tied to a specific award and cannot be used in other Federal awards as match. Therefore, a recipient could limit future actions with excess match. If there is not enough

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operating and capital in-kind match to equal the Section 5311(f) funds needed to cover the operating deficit, the State or local agency would have to produce the difference in cash.

- f. Documentation Required in State's Application for Section 5311 Funding. When applying to use in-kind match, the State must provide the following supplemental information with its Section 5311 grant application:
- (1) For each project using the match, the State must provide a description of the feeder service and the connecting service, identifying locations served by each, and the connections. Only those runs that connect with the feeder service can be used for match. For example, if the private operator makes four trips per day through point B, but the feeder service only operates twice daily, only the operating and capital costs of the two daily connecting trips can be used as in-kind match.
  - (2) Itemize the total costs of each segment used in the project description (e.g., A to B and B to C, by actual place names and level of service). The value of the in-kind match must be based on the documented costs incurred by the private operator in providing the connecting service, with reasonable calculations by costs per mile, or costs per hour, for example.
  - (3) If the amount calculated as in-kind does not provide sufficient match for the entire operating deficit of the feeder service, additional cash match is required.
  - (4) The application should include documentation that the private operator has consented to the arrangement, documented the costs of the private service being used for in-kind match, and acknowledged that the private service is part of the FTA project and thus is covered by the labor warranty and other Federal requirements.
- g. Grant Application Review and Processing.
- (1) FTA Role.
    - (a) Review the documentation to ensure the project is eligible for Section 5311(f) assistance and that sufficient local match is provided by the in-kind capital contribution or other sources to match the operating assistance provided.
    - (b) Add a comment to the internal review comments in FTA's TrAMS noting that the use of in-kind match has been reviewed and approved pursuant to this guidance for this provision.

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- (2) State Role. The State implements Section 5311(f) as part of its management of the Section 5311 program. FTA encourages the State to look at the intercity bus transportation needs of the entire State and to work with neighboring States to adopt a program that will support a network of intrastate services and provide connections with a national network of interstate service. The State is encouraged to work with private providers of intercity bus transportation for potential use of the program. The State will provide available information to FTA or its contractors upon request to support a national evaluation of the implementation of Section 5311(f).
7. ELIGIBLE SUBRECIPIENTS. The definition of a subrecipient in Section 5311(a)(2) includes an operator of intercity bus service that receives Federal transit program grant funds through a State or Indian Tribe that is a recipient. In some instances, intercity bus providers may prefer to maintain a contractual relationship. The State may use either mechanism to provide assistance to private operators for intercity bus service. In either case, the State must conduct all transactions in a manner that provides full and open competition to ensure that the private operator is qualified, will provide eligible service, can comply with Federal and State requirements, and is the best or only provider available to offer service at a fair and reasonable cost.
8. ELIGIBLE SERVICES AND SERVICE AREAS. Connection to the national network of intercity bus service is an important goal of Section 5311(f), and services funded must make meaningful connections wherever feasible. Examples to determine meaningful connections include but are not limited to consideration of whether there are common stops or schedules allowing for public transit and other passengers to transfer to and from intercity bus service. Intercity bus projects may include package express service if it is incidental to passenger transportation.

The definition of intercity bus does not include commuter service (service designed primarily to provide daily work trips within the local commuting area). Commuter service is excluded because it is considered a local public transportation service, eligible for assistance under Section 5311 but not counting toward the required percentage for Section 5311(f). A service is defined as a commuter service if at least 50 percent of passengers make a return trip on the same day across all service runs for one year.

Intercity bus service is not limited by the size of the vehicle used or by the identity of the carrier. Intercity bus does not include air, water, or rail service. While much of the public transportation service assisted under Section 5311 covers large distances because of the nature of the areas served, not all long-distance trips are included in the definition of intercity bus service. For example, service that provides extensive circulation within a region (in contrast to regular but infrequent service from limited points in the community of origin to

limited points in the destination community) is not considered intercity bus service, although it may be an eligible public transportation service. Similarly, service that only incidentally stops at an intercity bus facility among other destinations within the city at either end of a route that covers a long distance, without regard to scheduled connections, is eligible for Section 5311 assistance as public transportation but is not an intercity bus feeder service.

9. ELIGIBLE ACTIVITIES. Eligible activities under Section 5311(f) must support intercity bus service in rural areas. Section 5311(f) specifies eligible intercity bus activities to include “planning and marketing for intercity bus transportation; capital grants for intercity bus shelters; joint-use facilities; operating grants through purchase-of-service agreements, user-side subsidies, and demonstration projects; and coordinating rural connections between small public transportation operations and intercity bus carriers” (Section 5311(f)(1)(A–E)).

This listing does not preclude other capital and operating projects for the support of rural intercity bus service. For example, the State may provide operating assistance to a public or private nonprofit organization for the direct operation of intercity bus service after appropriate consideration of participation by private for-profit service providers. Capital assistance may be provided to purchase vehicles or vehicle-related equipment, such as wheelchair lifts, for use in intercity bus service. Charter and tour services are not eligible for FTA assistance (see 49 CFR Part 604).

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

FTA funds can be used for all aspects of intercity bus and rail facilities in facilities (such as intermodal terminals) that meet the criteria in Section 5302(4)(G) for joint development projects. FTA published final guidance for joint development projects in the Federal Register on January 31, 2024 (89 FR 6184). See FTA Circular 7050.1C, “Federal Transit Administration Guidance on Joint Development.”

Additionally, per 49 U.S.C. 5323(r), a recipient of assistance under Chapter 53 may not deny reasonable access for a private intercity bus or charter transportation operator to federally funded public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway lanes. In determining reasonable access, capacity requirements of the recipient of assistance and the extent to which access would be detrimental to existing public transportation services must be considered. This may include, for example, a review of

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physical constraints at the facility, scheduling and resource availability, and safety and security measures needed."

10. FEEDER SERVICE. The coordination of rural connections between small transit operations and intercity bus carriers may include the provision of service that acts as a feeder to intercity bus service and makes meaningful connections with scheduled intercity bus service to more distant points. The feeder service is not required to have the same characteristics as the intercity bus service with which it connects. For example, feeder service may be demand-response, while intercity bus service is by definition fixed-route. Examples of eligible costs include marketing and extended hours of service in order to connect with scheduled intercity bus service. Where feasible, intercity bus feeder service may also provide access to intercity connections with rail or air service. Rural transit providers operating feeder service with destinations across State lines are required to comply with the FMCSA regulations. Intrastate feeder service may also trigger compliance with FMCSA regulations if interlining (issuing a single ticket for the feeder service and the trip provided by an interstate carrier) is involved. Section 5311(f) funds may be used for expenses incurred by a public transit operator as a result of FMCSA requirements triggered by the provision of feeder services.
  
11. ADA REGULATIONS. Intercity bus service operated by private entities using over-the-road buses (OTRBs), characterized by an elevated passenger deck over a baggage compartment, is subject to the DOT's ADA over-the-road bus regulations, at 49 CFR Part 37 subpart H (49 CFR 37.181 et seq.).
  - Effective October 29, 2012, 100 percent of OTRBs operated by large operators (Class I motor carriers) that provide fixed-route service—service operated along a prescribed route according to a fixed schedule—must be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.
  - Accessible OTRBs must comply with 49 CFR Part 38 subpart G (49 CFR 38.151 et seq.).
  - In the event the intercity bus service is provided by a public entity or under contract or other arrangement or relationship to a public entity, the vehicles must be compliant with both 49 CFR 38.23 and subpart G of Part 38.

Complementary paratransit service is not required for intercity bus service.

Intercity bus service operated by private entities using other types of vehicles are subject to the DOT ADA regulations governing fixed-route or demand-response service by private entities. For fixed-route systems, all vehicles other than automobiles must be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. For demand-response systems, all vehicles other than automobiles must be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, meets the requirements for

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equivalent service specified under 49 CFR 37.105. For both fixed-route and demand-response service, vans with a seating capacity of fewer than eight persons, including the driver, must be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, meets the standard for equivalent service under 49 CFR 37.105.

Equivalent service under 49 CFR 37.105 is defined as follows: The service available to individuals with disabilities, including individuals who use wheelchairs, must be provided in the most integrated setting appropriate to the needs of the individual and must be equivalent to the service provided other individuals with respect to the following service characteristics:

- Schedules/headways (if the system is fixed-route);
- Response time (if the system is demand-response);
- Fares;
- Geographic area of service;
- Hours and days of service;
- Availability of information;
- Reservations capability (if the system is demand-response);
- Any constraints on capacity or service availability; and
- Restrictions priorities based on trip purpose (if the system is demand-response).

12. FEDERAL SHARE. The Federal share for intercity bus projects is the same as for the Section 5311 program as a whole: 50 percent of the net cost for operations and 80 percent of the net cost for capital projects and project administration. State administration, planning, and technical assistance in support of intercity bus transportation are eligible at 100 percent Federal share if applied against the cap on State administration expenses. The amount of Section 5311 funds used for planning for intercity bus transportation is not limited by the 10 percent cap on State administration. However, the Federal share of any planning assistance for intercity bus not included in the 10 percent allowed for State administration is limited to 80 percent of the planning costs. The sliding scale match described in the “Sliding Scale” section of this circular is applicable.

13. CAPITAL PROJECTS IN URBANIZED AREAS. Use of Section 5311(f) funds for capital projects in UZAs is limited to those aspects of the project that can be identified as directly benefiting and supporting service to and from rural areas. These projects must be included in both the metropolitan TIP and the STIP and follow the appropriate project selection requirements contained in the joint planning rule. (See 23 CFR Part 450 and 49 CFR Part 613.)

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

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## CHAPTER X

### RURAL TRANSPORTATION ASSISTANCE PROGRAM

1. PROGRAM SUMMARY. Title 49 U.S.C. 5311(b)(3) authorizes the Secretary “to make grants and contracts for transportation research, technical assistance, training and related support services in rural areas.” RTAP provides a source of funding to assist in the design and implementation of training and technical assistance projects and other support services tailored to meet the specific needs of transit operators in rural areas. No more than two percent of the funds appropriated for Section 5311 each year are available for RTAP. Of that amount, no more than 15 percent is available for projects of a national scope, with the balance apportioned to the States. The State program provides an annual allocation to each State to develop and implement training and technical assistance programs in conjunction with the State’s administration of the Section 5311 formula assistance program. The national program provides for the development of information and materials for use by local operators and State administering agencies and supports research and technical assistance projects of national interest.
2. PROGRAM OBJECTIVES. The objectives of RTAP are:
  - a. To promote the safe and effective delivery of public transportation in rural areas and to make more efficient use of public and private resources;
  - b. To foster the development of State and local capacity for addressing the training and technical assistance needs of the rural transportation community;
  - c. To improve the quality of information and technical assistance available through the development of training, technology, and technical assistance resource materials;
  - d. To facilitate peer-to-peer self-help through the development of local networks of transit professionals;
  - e. To support the coordination of public, private, specialized, and human services transportation services; and
  - f. To build a national database on the rural segment of the public transportation industry.
3. FUNDING AND ALLOCATIONS.
  - a. Authorization. RTAP is authorized at 49 U.S.C. 5311(b)(3). Not more than two percent of the funds available to carry out Section 5311 shall be available for the RTAP. Of that



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amount, no more than 15 percent is available for projects of a national scope, with the balance apportioned to the States.

- b. Allocation. FTA allocates RTAP funds to the States by an administrative formula that consists of a \$65,000 floor for each State, including Puerto Rico, and a \$10,000 floor for the insular areas of Guam, American Samoa, and Northern Marianas. FTA allocates the balance based on rural population in the most recent decennial census.
- c. Funds Availability. State RTAP funds have the same period of availability as the Section 5311 formula funds: the fiscal year in which they are allocated plus two additional fiscal years. If the State does not obligate its allocation during this period, FTA reallocates the funds among all the States the following fiscal year.
- d. Federal Matching Requirements. There is no local match requirement for RTAP funds.

#### 4. STATE PROGRAM DEVELOPMENT AND DELIVERY.

- a. Eligible Assistance Categories. States may use RTAP funds to support rural transit activities in four categories: training, technical assistance, research, and related support services. The purchase of equipment to support the four eligible activities is an eligible expense.
- b. Program Development. The State should develop State RTAP activities through a process that provides maximum opportunity for the participation of rural transit operators, both public and private, to identify and establish priority areas of need for transportation research, technical assistance, training, and related support services in rural areas. Establishment of a State RTAP advisory committee is one effective way to enable rural transit operators within the State to provide ongoing review and comment on the State's program development and delivery. The costs associated with implementing a State RTAP advisory committee are eligible RTAP expenses.
- c. Program Delivery. States have broad discretion in deciding how best to provide assistance and implement projects under the State RTAP. Delivery mechanisms include:
  - (1) Assistance by in-house State staff;
  - (2) Contracts with private consultants, universities, nonprofit organizations, State transit associations, or other operator organizations;
  - (3) Contracts for administration of the State RTAP or particular elements of it by the State's Local Technical Assistance Program (LTAP) center (an FHWA-sponsored resource with a demonstrated capacity for delivering training and technical

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assistance on highway topics that may represent a valuable in-state resource for transit, as well);

- (4) Support of peer-to-peer networks of individuals to provide assistance to one another;
  - (5) Interagency agreements with other State agencies, both within the State and in other States; and
  - (6) Scholarships or tuition and expenses for people to attend training courses or workshops.
- d. State Administrative Expenses. The State may not use State RTAP funds for State administrative or overhead expenses. However, any State administrative expense incurred in administering the State RTAP may be covered by the 10 percent of a State's annual Section 5311 formula apportionment available for State administration. The direct cost of using State staff to deliver RTAP services such as training or technical assistance is a program expense, not an administrative expense. Contracts with other organizations to administer and deliver RTAP services may include reasonable administrative and overhead costs.
- e. RTAP Participation by Providers in Urbanized Areas. Providers of specialized transportation in urbanized areas, such as Section 5310-funded agencies and public transit operators in small urbanized areas, have many of the same training and technical assistance needs as transit providers in rural areas. FTA permits participation by these UZA providers in RTAP-sponsored activities, at the State's discretion, so long as the activities are primarily designed and delivered to benefit rural transit providers. When UZA providers are more than incidental beneficiaries of an RTAP-supported activity, the State should allocate the costs of the project fairly between RTAP and other sources. RTAP funds should pay only for the proportion of the project costs attributable to the rural beneficiaries.
- f. Participation by Indian Tribes. FTA strongly encourages States to consider the needs of Indian Tribes, including those Tribes that are not receiving funding from the State's Section 5311 apportionment, for technical assistance and training related to Tribal transit service.
- g. Pooling of State RTAP Funds. FTA encourages States to consider "pooling" or consolidating RTAP funds in order to support activities or projects that would be more effectively carried out on a larger scale than through a single State. Two or more States within a region could do such pooling.

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

Two methods are available to consolidate, or pool, funding. Participating States may:

- (1) Obligate funds for the joint project as part of the State RTAP POP in its Section 5311 grant and subsequently transfer the funds to the implementing organization through a contract or subagreement; or
- (2) Designate a single State to receive and administer all the pooled funds.

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

5. PROGRAM MANAGEMENT. The State administers State RTAP funds in conjunction with its management of the Section 5311 formula assistance program. Application procedures, program administration, and management requirements must correspond to those for Section 5311 as described throughout this circular.
6. NATIONAL PROGRAM. The purpose of the National RTAP is to support the State programs and develop information resources about rural public transportation. A 15-member project review board that includes both State administrators and local transit operators, including one Tribal representative, guides the development of national program activities and products. FTA directly funds the national program through cooperative agreements and contracts. The national program currently includes the following elements:
  - a. Development and maintenance of training materials, management and operational tools for use by rural and Tribal transit operators, and other information resources;
  - b. A [national resource center](#), including a toll-free hotline for information and technical assistance (1-888-589-6821), [online information resource center](#), and a [peer-to-peer technical assistance network](#);

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- c. Regional and national meetings and workshops that support the State RTAPs, provide direct, in-person training for rural and Tribal transit operators, and promote information exchange about rural public transportation;
  - d. Periodic updates and analysis of rural transit data, including the data provided through the national rural transportation database and publication of directories of subrecipients under FTA formula programs for rural areas and for seniors and people with disabilities; and
  - e. Management of the [Transportation Technical Assistance Coordination Library \(TA CL\)](#) a sustainable methodology and platform for access and findability of coordination resources across a diverse range of transportation technical assistance centers and the FTA.
7. OTHER TECHNICAL ASSISTANCE RESOURCES. Other national programs and projects also provide valuable technical assistance resources for State and rural transit providers. A current list of FTA-funded technical assistance centers is available on the [FTA-Sponsored Technical Assistance, Training, and Research Resource Programs web page](#). Additional Federal technical assistance resources are available on the [CCAM website](#). FHWA's [Tribal Transportation Assistance Program \(TTAP\)](#) Centers offer additional resources to Tribes and transit providers.

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## CHAPTER XI

### PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS

1. PROGRAM SUMMARY. Title 49 U.S.C. 5311(j) authorizes the Public Transportation on Indian Reservations (Tribal Transit) Program, which allocates funds by both statutory formula and through a competitive program. FTA consulted with Tribal recipients and stakeholders to implement these program requirements. FTA apportions the available formula funds for grants to Indian Tribes for purposes eligible under Section 5311, including capital, operating, planning, JARC projects, and administrative costs. For the competitive allocations, specific project eligibility will be announced in a NOFO.

FTA will publish a NOFO for the competitive funds on an annual basis in the Federal Register. The NOFO will announce the available funding, application procedures, specific eligibility, and criteria for project selection for the competitive program. FTA posts all competitive grant opportunities on the Federal government's centralized source for information on competitive grants, [Grants.gov](https://www.grants.gov).

2. PROGRAM OBJECTIVES. The TTP provides direct funding to federally recognized Indian Tribes to provide public transportation service on and around Indian reservations or Tribal land in rural areas. Funds set aside for the Indian Tribes are not meant to replace or reduce funds that Indian Tribes receive from a State's Section 5311 funds. The TTP funds are meant to complement any other 5311 funds or other FTA award funds that applicants may receive.
3. TRIBAL TRANSPORTATION SELF-GOVERNANCE PROGRAM. Grant funding made available through the Section 5311 program, the TTP, and other FTA programs may be included in a Tribal Transportation Self-Governance funding agreement if there is an existing Self-Governance compact in place between the Tribe and the U.S. Department of Transportation. If funds are administered under a Tribal Self-Governance funding agreement, the funds will be subject to the requirements and provisions of the Tribal Transportation Self-Governance Program regulation at 49 CFR Part 29 and may be used only for the purpose for which they were awarded.
4. ELIGIBLE RECIPIENTS. Eligible recipients under both the competitive and formula program include [federally recognized American Indian or Alaska Native Tribes as identified by the U.S. Department of the Interior Bureau of Indian Affairs \(BIA\)](#). A Tribe must have the legal, financial, and technical capabilities to receive and administer Federal funds.
5. ELIGIBLE SERVICES AND SERVICE AREAS. The purpose of the TTP is to provide and enhance public transportation on Indian reservations and Tribal lands and to provide transit services to serve Tribal communities. Public transportation funded under this program must

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serve the public, not just Tribal members. Service funded under this program must serve areas outside of urbanized areas with 50,000 or more people as designated by the Census Bureau. To receive funding, Tribes must be providing public transit or proposing to provide public transit services. Funds may be used for public transportation capital projects, operating costs of equipment and facilities, transit planning, and acquisition of public transportation services, including service agreements with private providers of public transportation services. Funding may be for planning; start-up transit service; enhancement of existing services; purchase of transit capital items, including vehicles; and operating expenses. Operating expenses include fuel, driver and dispatcher salaries, fringe benefits, and licenses. (See Chapter IV for full details on Section 5311 eligibility.)

6. FORMULA PROGRAM.

- a. Eligibility. The Tribal Transit formula program is distributed to federally recognized Indian Tribes providing public transportation on Tribal lands. In order to receive formula funds, a Tribe must report to the NTD on an annual basis.
- b. Tribal Transit Formula. FTA apportions Tribal Transit funds to Indian Tribes by a statutory formula using the NTD and the latest available U.S. decennial census population data. The three tiers under the formula in 49 U.S.C. 5311(j) are:
  - (1) Tier 1: 50 percent of the available funds are apportioned based on vehicle revenue miles;
  - (2) Tier 2: 25 percent of the available funds are apportioned among Indian Tribes providing at least 200,000 annual vehicle revenue miles; and
  - (3) Tier 3: 25 percent of the available funds are apportioned among Indian Tribes providing public transportation on Tribal lands where more than 1,000 low-income persons reside.

7. COMPETITIVE PROGRAM ELIGIBILITY. Title 49 U.S.C. 5311(j) includes a Tribal Transit competitive program. The funds will be allocated for grants to Indian Tribes for purposes eligible under Section 5311. The NOFO will describe specific funding priorities. Eligible projects include:

- a. Planning;
- b. Capital; and
- c. Operating assistance.

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8. TERMS AND CONDITIONS FOR THE TRIBAL TRANSIT FORMULA AND COMPETITIVE PROGRAMS. When Tribes receive funds under the State's Section 5311 program or other FTA funds, all Federal requirements apply. When Tribes receive only Tribal Transit funds, Tribes must comply with the following cross-cutting requirements:

- a. Uniform Guidance, 2 CFR Parts 200 and 1201;
- b. Title VI of the Civil Rights Act of 1964;
- c. Section 504 of the Rehabilitation Act of 1973;
- d. ADA of 1990;
- e. Drug and Alcohol Testing Requirements (49 CFR Part 655);
- f. NEPA;
- g. Charter Service and School Bus Transportation Restrictions in 49 CFR Parts 604 and 605;
- h. NTD Reporting Requirement (49 U.S.C. 5335);
- i. Bus Testing (49 CFR Part 665);
- j. Labor Protection requirement from the U.S. DOL; and
- k. Buy America requirements.

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

9. MATCHING REQUIREMENTS.

- a. No local match is required for the Tribal Transit formula program.
- b. No local match is required for the Tribal Transit competitive program, but FTA does permit a tribe to voluntarily provide match or contribute to their project with eligible matching funds.

10. INDIRECT COST RATE. For the Tribal Transit formula program, FTA will apply the indirect cost rate as identified in a Cost Allocation Plan approved by a cognizant Federal agency or an approved agreement with a cognizant agency pursuant to FTA's guidance on charging indirect costs to awards in FTA Circular 5010.1F. Please refer to published NOFOs for the indirect cost rate to apply to Tribal Transit competitive funding.

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11. STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM AND/OR TRANSPORTATION IMPROVEMENT PROGRAM REQUIREMENT. There is no STIP or TIP requirement under the Tribal Transit formula or competitive programs.
  12. FUNDS AVAILABILITY. Funds both allocated by formula and awarded under the competitive program remain available to Tribes for obligation for three Federal fiscal years, beginning with the year of apportionment plus two additional years. For example, funds awarded to a Tribe in FY 2024 are available until September 30, 2026.
  13. PROGRAM ASSISTANCE. Each region has a regional Tribal liaison who is available to assist Tribes with program requirements and grant applications. See [FTA's website](#) for contact information.
  14. NATIONAL TRANSIT DATABASE REPORTS. The NTD is FTA's primary national database for statistics on the transit industry. Recipients and subrecipients of Section 5311 awards are required by 49 U.S.C. 5335(a) and (b) to submit data to the NTD as a condition of the award. Specific reporting requirements are included in the NTD reporting instructions manual issued each year. The most recent reporting manuals are available on the [NTD's manual web page](#). Section 5311(b)(4) specifies that each Section 5311 recipient shall submit an Annual Report containing information on capital investment, operations, and service provided under Section 5311.

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



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## APPENDIX A

### PROCEDURES RELATED TO FLEXIBLE FUNDING

1. FLEXIBLE FUNDS. Flexible funding is available for those programs authorized under the Federal-Aid Highway Program that are permitted to be used for either transit, intercity bus, or highway projects. The funds may be transferred to FTA for any capital projects, including preventive maintenance and operational expenses, eligible under FTA's Urbanized Area Formula Funding Program (Section 5307), the Enhanced Mobility of Seniors and Individuals with Disabilities Program (Section 5310), and the Formula Grants for Rural Areas Program (Section 5311). The primary flexible fund programs are the STBG and the CMAQ Improvement programs. Funds transferred under the CMAQ program may be used for transit operating expenses for new service, subject to certain limitations. However, the Bipartisan Infrastructure Law also established the Carbon Reduction Program (CRP), which provides funds for projects designed to reduce transportation emissions, defined as carbon dioxide emissions. In addition, other FHWA programs have some limited intermodal flexibility.
2. PROCEDURES. Under certain circumstances, funds may be used in an area of the State other than the area for which they were apportioned. The following guidance refers only to the funds transferred to Section 5311.
  - a. General. Funds transferred from FHWA to FTA for use in a rural area will be subject to the same general program requirements as Section 5311. Flex funding for eligible transit or intercity bus projects can be administered either using separate grant applications or by a single application.
  - b. Funds Transferred to FTA. Funds available under the STBG may be transferred to FTA and used for any capital purpose eligible under FTA's Section 5311 program. In addition, NHS funds and portions of FHWA's interstate maintenance and bridge programs may be transferred to the STBG and then made available to States for transit or intercity bus capital projects consistent with FTA requirements of the Section 5311 program. Finally, funds available under CMAQ may be used in ozone and carbon monoxide nonattainment areas for any transportation project or program (including several transit activities eligible under Section 5311), which helps lead to the attainment of national ambient air quality standards.

Transit and intercity bus projects in rural areas with populations of less than 50,000 that will be funded under any of these flexible programs must be identified in a STIP. Inclusion in the STIP constitutes a State's commitment to funding programmed projects with the identified FHWA source.

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FTA's Office of the Budget and Policy establishes the allotment and apportionment in TrAMS by fiscal fund year. The Office of the Budget and Policy coordinates with the FTA Regional Office to verify which of the formula programs receives the transferred funds and to which UZA code they should be assigned. These formula programs include the following:

- Urbanized Area Formula Grants (Section 5307)
  - Formula Grants for Rural Areas Program (Section 5311)
  - Enhanced Mobility of Seniors and Individuals with Disabilities (Section 5310)
  - Grants for Buses and Bus Facilities Program (Section 5339)
  - Metropolitan Planning (Section 5303)
  - Statewide Planning (Section 5304)
- c. Period of Availability. Flex funds transferred to FTA begin their period of availability at the time they are flexed to FTA and take on the period of availability of the FTA funding program to which they are transferred. For example, if funding is flexed to FTA's Section 5311 program in FY 2024, these funds would be available for obligation for the year they were flexed plus two additional years, through September 30, 2026.

Once FTA accepts and processes the flex funds from FHWA, the recipient proceeds with grant making following the guidance in this circular and FTA Circular 5010.1F. FTA's Regional Office will administer the project as a Section 5311 project.

Additional information on how to request a transfer of flexible funds from FHWA to FTA can be found on [FTA's website](#).

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

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

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

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APPENDIX B

**SAMPLE INTERCITY BUS CERTIFICATION**

(On official letterhead)

Month, Day, Year

Mr./Ms. (Name of FTA Regional Administrator)

Federal Transit Administration Regional Administrator

Federal Transit Administration

<Address of Regional Office>

Dear FTA Regional Administrator:

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

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

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

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

Considering the State assessment and the results of the consultation process, the basis for the certification that there are no unmet intercity bus needs in the State is *[explain in detail]*:

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

Sincerely,

Jane Doe  
Governor

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