



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

Administrator

400 Seventh St., S.W.  
Washington, D.C. 20590

NOV 6 1998

C-98-32

Dear Colleague:

It is a pleasure to issue the revised circular for the Federal Transit Administration's Urbanized Area Formula Program. FTA Circular 9030.1C, Urbanized Area Formula Program: Grant Application Instructions, provides program guidance and application procedures for transit capital and operating assistance in urbanized areas and for transportation-related planning.

In FY 1999, FTA will begin using its new Transportation Electronic Award and Management (TEAM) system for grant award and management. The system uses graphic user technology, providing point and click "smart" selections that will aid grant recipients in the process of submitting applications and reporting on the management of their grants.

The main purpose of this circular revision is to reflect provisions of the Transportation Equity Act for the 21st Century (TEA-21).

Sincerely,

Gordon J. Linton

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JUN 15 1999





U.S. Department  
of Transportation

Federal Transit  
Administration

# CIRCULAR

FTA C 9030.1C

October 1, 1998

**Subject: URBANIZED AREA FORMULA PROGRAM:  
GRANT APPLICATION INSTRUCTIONS**

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1. **PURPOSE.** This circular provides guidelines for the preparation of grant applications to obtain Federal assistance for transit projects under the Urbanized Area Formula Program administered by the Federal Transit Administration (FTA). The Urbanized Area Formula Program is authorized by Title 49, United States Code, Section 5307. The circular is a revision of FTA Circular 9030.1B. This revision incorporates current statutory and programmatic requirements and includes changes based on the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, enacted June 9, 1998, and subsequently amended by the TEA-21 Restoration Act, Public Law 105-206.
2. **CANCELLATION.** This circular cancels FTA Circular 9030.1B, "Urbanized Area Formula Program: Grant Application Instructions," dated 10-10-96.
3. **CODIFICATION OF FEDERAL TRANSIT LAWS.** Since July 1994, the bulk of Federal transit law has been codified in chapter 53 of Title 49, United States Code. Upon codification, substantially all of the Federal Transit Act, as amended, was repealed as redundant.
4. **REFERENCES.**
  - a. Federal transit laws, 49 U.S.C. chapter 53.
  - b. 49 U.S.C. chapter 53 may be viewed at <http://www.fta.DOT.gov> on FTA's website.
  - c. Federal highway and surface transportation laws, Title 23, United States Code.
  - d. Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. No. 102-240, 105 Stat. 1914, Dec. 18, 1991 (codified as amended by Pub. L. 103-272, 108 Stat. 745, July 5, 1994, in scattered sections of 49 and 23 United States Code).
  - e. Transportation Equity Act for the 21st Century, Pub. L. No. 105-178, June 9, 1998.
  - f. TEA-21 Restoration Act, Pub. L., 105-206.
  - g. Lobbying disclosure provisions of 31 U.S.C. § 1352.
  - h. Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* and scattered sections of 29 United States Code.

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**Distribution: FTA Headquarters Offices (T-W-2)  
FTA Regional Offices (T-X-2)**

**OPI: Office of Program  
Management**

- i. Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq.
- j. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794.
- k. National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 et seq.
- l. Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470f.
- m. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. §§ 4601 et seq.
- n. Drug-Free Workplace Act of 1988, 49 U.S.C. § 702 et seq.
- o. U.S. Department of Housing and Urban Development regulations, "Community Development Block Grants," 24 C.F.R. Part 570.
- p. U.S. Department of Transportation (DOT) regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 49 C.F.R. Part 18.
- q. U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20.
- r. U.S. DOT regulations, "Participation by Minority Business Enterprise in Department of Transportation Programs," 49 C.F.R. Part 23.
- s. U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 C.F.R. Part 24.
- t. U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27.
- u. U.S. DOT regulations, "Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-free Workplace (Grants)," 49 C.F.R. Part 29.
- v. U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37.
- w. U.S. DOT regulations, "Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles," 49 C.F.R. Part 38.
- x. U.S. DOT regulations, "Procedures for Transportation Workplace Drug Testing Programs," 49 C.F.R. Part 40.
- y. U.S. DOT regulations, "Seismic Safety," 49 C.F.R. Part 41.
- z. FTA regulations, "Charter Service," 49 C.F.R. Part 604.
- aa. FTA regulations, "School Bus Operations," 49 C.F.R. Part 605.
- ab. FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609.

- ac. FTA regulations, "Uniform System of Accounts and Records and Reporting System," 49 C.F.R. Part 630.
- ad. FTA regulations, "Prevention of Prohibited Drug Use in Transit Operations," 49 C.F.R. Part 653.
- ae. FTA regulations, "Prevention of Alcohol Misuse in Transit Operations," 49 C.F.R. Part 654.
- af. FTA regulations, "Project Management Oversight," 49 C.F.R. Part 633.
- ag. FTA regulations, "Capital Leases," 49 C.F.R. Part 639.
- ah. FTA regulations, "Rail Fixed Guideway Systems; State Safety Oversight," 49 C.F.R. Part 659.
- ai. FTA regulations, "Buy America Requirements," 49 C.F.R. Part 661.
- aj. FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 C.F.R. Part 663; and FTA Disposition of Inquiries, "Pre-Award and Post-Delivery Audits of Rolling Stock Questions and Answers," 57 Fed. Reg. 10834 (1992).
- ak. FTA regulations, "Bus Testing," 49 C.F.R. Part 665.
- al. Joint Federal Highway Administration (FHWA)/FTA regulations, "Planning Assistance and Standards," 23 C.F.R. Part 450 and 49 C.F.R. Part 613 (specifically, Subpart B, "Statewide Transportation Planning," and Subpart C, "Metropolitan Transportation Planning and Programming").
- am. Joint FHWA/FTA regulations, "Management and Monitoring Systems," 23 C.F.R. Part 500 and 49 C.F.R. Parts 613 and 614 dated 12-19-96.
- an. Joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622.
- ao. EPA regulations, "Determining Conformity of Federal Actions to State or Federal Implementation Plans," 40 C.F.R. Part 93.
- ap. Department of Labor Guidelines, "DOL Guidelines, Section 5333(b), Federal Transit law," 29 C.F.R. Part 215.
- aq. Office of Management and Budget Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," dated 5-17-95.
- ar. Office of Management and Budget Circular A-122, "Cost Principles for Non-profit Organizations," dated 6-1-98.
- as. Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations, dated 6-30-97.
- at. "DOT FTA/FHWA Transportation Management Areas Designation; Notice," 57 Fed. Reg. 21160, May 18, 1992.

- au. FTA Circular 4220.1D, "Third Party Contracting Requirements," dated 4-15-96.
- av. FTA Circular 4702.1, "Title VI Program Guidelines for Federal Transit Administration Recipients," dated 5-26-88.
- aw. FTA Circular 4704.1, "Equal Employment Opportunity Program Guidelines for Grant Recipients," dated 7-26-88.
- ax. FTA Circular 4716.1A, "Disadvantaged Business Enterprise Requirements for Recipients and Transit Vehicle Manufacturers," dated 7-26-88.
- ay. FTA Circular 5010.1C, "Grant Management Guidelines," dated 10-1-98.
- az. FTA Circular 5200.1, "Full Funding Grant Agreements Guidance," dated 7-2-93.
- ba. FTA Circular 7008.1 "Urban Mass Transportation Financial Capacity Policy," dated 3-30-87.
- bb. FTA Circular 9040.1E, "Nonurbanized Area Formula Program Guidance and Grant Application Instructions," dated 10-1-98.
- bc. FTA Circular 9300.1A "Capital Program: Grant Application Instructions," dated 10-1-98.
- bd. FTA Circular 9400.1A, "Design and Art in Transit Projects," dated 6-9-95.
- be. FTA Circular 9500.1, "Intergovernmental Review of FTA Planning, Capital and Operating Programs and Activities," dated 3-30-84.
- bf. FTA report "Flexible Funding Opportunities for Transportation Investments."
- bg. FTA Notice "Policy Statements on Local Share Issues," 57 Fed. Reg., 30880 (1992).
- bh. FTA Notice, "Change in Policy on Sale and Replacement of Transit Vehicles," 57 Fed. Reg., 39328 (1992).

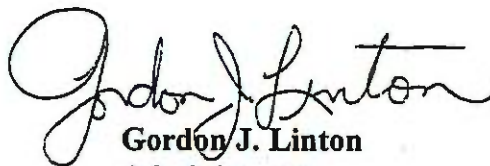
  
**Gordon J. Linton**  
**Administrator**

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CHAPTER I

GENERAL OVERVIEW

1. AUTHORIZING LEGISLATION

- a. Authorizing Legislation. Authorizing legislation is substantive legislation enacted by Congress that sets up or continues the legal operation of a Federal program or agency. Congress amends FTA's authorizing legislation every four to six years. FTA's most recent authorizing legislation is the Transportation Equity Act for the 21st Century ("TEA-21") Public Law 105-178, enacted June 9, 1998. TEA-21 was subsequently amended by the TEA-21 Restoration Act, Public Law 105-206. TEA-21 authorizes FTA programs from Federal Fiscal Year (FY) 1998 through Fiscal Year 2003. Changes have been added to this circular to reflect the TEA-21 changes to Federal transit law and to reflect other laws that have come into effect since the circular was last published in 1996.
- b. Codification of Federal Transit Laws. The Urbanized Area Formula Program was established by the Surface Transportation Assistance Act of 1982. That statute and related transit laws are now codified at 49 U.S.C. Chapter 53. The statutory citation for the Urbanized Area Formula Program is 49 U.S.C. Section 5307.

Listed below are the citations within Chapter 53 that are most commonly referred to in this circular. Also listed are citations within TEA-21 that may also be of interest to a grant applicant applying for Urbanized Area Formula Program funds.

<u>Subject</u>	<u>Citation</u>
	<u>49 U.S.C.</u>
Metropolitan Planning Program	Section 5303
Urbanized Area Formula Program	Section 5307
Clean Fuels Formula Program	Section 5308
Capital Program	Section 5309
Elderly and Persons with Disabilities Program	Section 5310
Nonurbanized Area Formula Program	Section 5311
State Planning and Research Program	Section 5313(b)

<u>Subject</u>	<u>Citation</u>
Transit Employee Protective Certification	Section 5333(b)
National Transit Database	Section 5335
 <u>TEA-21</u> 	
Job Access and Reverse Commute Program	TEA-21, Section 3037
Over-the-Road Bus Accessibility Program	TEA-21, Section 3038
Transportation and Community and System Preservation Pilot Program	TEA-21, Section 1221

2. DEFINITION OF TRANSIT. The terms "transit" and "mass transportation" are used interchangeably in transit law. The term "mass transportation" is defined as "transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include school bus, charter, or sightseeing transportation." (Sections 5302 (a)(7) and (a)(14))
  
3. THE URBANIZED AREA FORMULA PROGRAM. The Urbanized Area Formula Program makes Federal resources available to urbanized areas and to the Governors for transit capital and operating assistance in urbanized areas and for transportation-related planning. An urbanized area is an incorporated area with a population of 50,000 or more that is designated as such by the Bureau of the Census.

For urbanized areas with 200,000 in population and over, Urbanized Area Formula Program funds are apportioned and flow directly to a designated recipient(s) selected locally to apply for and receive Federal funds. For urbanized areas under 200,000 in population, the funds are apportioned to the Governor of each state for distribution. A few areas with under 200,000 in population have been designated as transportation management areas and receive apportionments directly. See Chapter II, paragraph 2, "Designated Transportation Management Areas." Chapter IV describes the apportionment process.

Under this formula program, state and local agencies are permitted to:

- a. allocate program resources among recipients in an urbanized area without Federal involvement;
  
- b. identify and select the projects (capital, operating, or planning) to be included in a metropolitan and a statewide transportation improvement program;



- c. self-certify that various statutory requirements have been or will be met; and
- d. submit a single grant application and one budget for the Section 5307 program in lieu of many individual project applications and budgets.

The Federal role in program management activities is, to the maximum extent feasible, limited and non-intrusive. At the grant application stage, the application review focuses on two aspects: whether the grant applicant provided the information qualifying it as eligible to receive and administer funds from the FTA, and whether the activities in the grant applicant's proposed budget are eligible under 49 U.S.C. Chapter 53. Many of the eligibility issues are met by the grant applicant's certification that it does qualify or that it will comply with requirements. FTA follows up with checks of the self-certifications after the grant has been awarded. FTA legislation requires the FTA to conduct audits or have recipients of FTA grants to have independent audits conducted on an annual basis. Legislation also requires the Secretary of Transportation to conduct post-grant reviews and evaluations of the grantee's compliance with certifications and other requirements at least once every three years. When deficiencies in complying with Federal requirements are identified through FTA evaluations or through independent audits, FTA is authorized to provide technical assistance to aid a grant recipient in complying with Federal requirements.

In recent years there has been increased emphasis on metropolitan and statewide planning as the basis for project selection. Projects to be funded by FTA must have been part of a local planning process that included clear identification of needs and the sources of funds supporting a project and a well-publicized opportunity for the public to comment on the plans. FTA provides technical assistance through the presence of 10 Regional Offices, training courses, and regional meetings to assist the grantee in complying with administrative and legislative requirements. The Regional Office addresses and telephone numbers and the states they serve are listed in Chapter VIII.

4. APPROPRIATIONS. Congress appropriates funds for FTA programs annually, and Urbanized Area Formula Program funds are apportioned annually by FTA. Funds apportioned by FTA under the Urbanized Area Formula Program remain available to the recipient for four fiscal years--the year of the apportionment plus three additional years. Agencies submit grant applications to FTA for funds apportioned to their respective urbanized areas. Upon approval by FTA of the grant application and execution of the grant agreement, FTA obligates the funds to the grant applicant. After four years, funds apportioned but not obligated in grants by FTA will no longer be available for obligation to the urbanized area to which they were originally apportioned. These funds will be added to the amount available to FTA for re-apportionment nationally in the next fiscal year.

5. AVAILABILITY OF "FLEXIBLE" FUNDS. Flexible funding categories are those programs authorized under Title 23 U.S.C. (the Federal-Aid Highway program) whose funds may be used for either transit or highway projects.

Flexible fund programs include the Surface Transportation Program (STP) (23 U.S.C. Section 133); Donor State Bonus (Section 157); Interstate Maintenance (Section 119); Bridge Replacement and Rehabilitation (Section 144); National Highway System (Section 104(c)); Substitute Highway (Section 103(e)(4)(B)); and the Congestion Mitigation and Air Quality Improvement (CMAQ) program (Section 149). Although these Federal Highway Administration (FHWA) programs have intermodal flexibility, there are limitations on the use of at least some portions of some programs. (As an example, there are funds in some programs available only to rural and only to urbanized areas.)

The flexible funds may be used for any non-operating purpose eligible under the Urbanized Area Formula Program, the Elderly and Persons with Disabilities Program (49 U.S.C. Section 5310), and the Nonurbanized Area Formula Program (49 U.S.C. Section 5311). However, the CMAQ funds may also be used for start-up implementation of new transit services.

Flexible funds transferred to FTA require the same non-Federal matching share that such funds would require if they were used for highway purposes and administered by the FHWA. When the flexible funds transferred are to be used for transit projects in urbanized areas under the Urbanized Area Formula Program, the funds are administered under the requirements guiding the Urbanized Area Formula Program.

More information about these flexible funds and procedures for transferring and administering them appears in Appendix E, "Procedures Related to Flexible Funding."

6. FEDERAL SHARE OF PROJECT COSTS.
- a. Planning and Capital Projects. The Federal share for planning and capital assistance projects under the Urbanized Area Formula Program is 80 percent of the net project cost, but a grant applicant is permitted to provide additional local funds at the grant applicant's option. Net project cost is that portion of the cost of a project that cannot be reasonably financed from revenues. After the Federal share is established, the remainder of the net project cost must be provided from sources other than Federal funds, unless another Federal statute permits the use of specific Federal funds for local share. ( See paragraph 7 below concerning local share.)
  - b. Exceptions. There are exceptions to the 80 percent Federal share for capital projects when FTA funds are providing assistance, as described below. There are also exceptions to the 80 percent Federal share when flexible funds from certain of the

Federal Highway Administration programs are being used. (See Appendix E, "Procedures Related to Flexible Funding.")

The exceptions in the FTA share ratio are as follows:

- (1) Americans with Disabilities Act (ADA). The Federal share is 90 percent for the cost of vehicle-related equipment attributable to compliance with the Americans with Disabilities Act of 1990 (49 U.S.C. Section 5323(i)); also, see paragraph (2) below).
- (2) Clean Air Act (CAA). The Federal share is 90 percent for the cost of vehicle-related equipment attributable to compliance with the Clean Air Act Amendments of 1990 (49 U.S.C. Section 5323(i)).

Grantees may choose from two options in calculating the Federal and local shares for vehicle-related equipment purchased to be in compliance with the ADA and CAA. In one option--applicable to the purchase of buses, vans, and rail vehicles and the purchase of equipment for such vehicles--the grant applicant may itemize the cost of specific, discrete, vehicle-related equipment being purchased to be in compliance with the ADA and CAA. The Federal share is 90 percent of the cost for these itemized elements.

In the other option, applicable for the purchase of buses and vans, the grant applicant may apply for an 83 percent Federal share of the total vehicle cost. The 83 percent is a blended figure representing 80 percent of the vehicle and 90 percent of the vehicle-related equipment to be acquired in compliance with the ADA and CAA.

FTA considers vehicle-related equipment to be equipment located on the vehicle.

- (3) Bicycle Facilities. The Federal share is 90 percent for those projects or portions of projects designed to:
  - (a) provide access for bicycles to transit facilities;
  - (b) provide shelters and parking facilities for bicycles in or around transit facilities; or
  - (c) install racks or other equipment for transporting bicycles on transit vehicles (49 U.S.C. Section 5319).

When the project involves bicycle access to transit and the access is made with funds required to be expended as a "transit enhancement," the Federal share will

be 95 percent, as provided by TEA-21 at Section 3019. (See the discussion of transit enhancements at Chapter V, paragraph 5q.)

c. Operating Assistance.

- (1) Federal Share for FY 1998 Funds. With regard to FY 1998 funds--which are available through FY 2001, the year in which the funds lapse--for areas with populations 200,000 and over, the Federal share may not exceed 50 percent of the net project cost, and the amount of FTA assistance must be within the urbanized area's apportionment limitation. For areas with populations under 200,000, the Federal share for an operating assistance grant providing FY 1998 funds may not exceed 50 percent of the net project cost, and the assistance must be within the apportionment limitation; the Federal share may also be 80 percent of the net project cost, with no limitation, or both, depending upon the choice of the small urbanized area.
- (2) Federal Share for FY 1999 Funds, and Thereafter. With regard to FY 1999 funds, and funds appropriated thereafter, operating assistance is available only to urbanized areas with populations under 200,000, and the Federal share may not exceed 50 percent of the net project cost, with no limitation on the amount of the apportionment that may be expended for operating assistance.

Exception. In addition, TEA-21 (at Section 3027(c)) provides an exception to the nonavailability of operating assistance in urbanized areas with populations 200,000 and over. Please see Appendix D, "Operating Assistance Projects."

7. LOCAL SHARE. The local share of the net project cost must be provided by the grant applicant in cash (or in kind) from sources other than Federal funds, or from non-farebox revenues from the operation of transit service, such as advertising and concession revenues. Any public or private transit system funds provided must be solely from undistributed cash surpluses, replacement or depreciation funds, or reserves available in cash, or new capital. The market value of real property integral to the project can be counted as a contribution toward local share, as can other in-kind contributions. Detailed rules for eligibility, valuation, and accounting for the local matching share are described in 49 C.F.R. Section 18.24, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." This document is referred to as the "Common Rule."

- a. Revenue Bond Proceeds as Local Share. For FY 1999 through 2003, TEA-21 authorized a grant applicant requesting assistance under the Urbanized Area Formula Program or the FTA Capital Program ( 49 U.S.C. Section 5309) to use the proceeds from the issuance of revenue bonds as the local share for a capital project, with prior FTA approval. Farebox receipts are one type of revenue that may be used to secure

the bonds. Under this TEA-21 provision, using proceeds of the revenue bonds as local share will be approved only if the aggregate amount of financial support from the state and affected local governmental authorities in the urbanized area during the next three fiscal years is not less than the aggregate amount provided by the state and affected local governmental authorities in the urbanized area during the preceding three fiscal years (as is made evident in the State Transportation Improvement Program).

- b. Credit for Toll Revenue Expenditures. Section 1111 of TEA-21 made permanent earlier statutory provisions that permit a state to count as a credit toward a project's local share certain expenditures the state makes with toll revenues (Section 1111 amended Section 120(j) of Title 23 U.S.C.). The amount of credit toward local share to be earned by a state, is based on revenue generated by toll authorities within the state that are used by the authorities to build, improve, or maintain highways, bridges, or tunnels that serve interstate commerce. The state has four fiscal years to use the credit. A grant applicant wishing to apply the provisions of Section 120(j) should discuss with its state Department of Transportation the availability of toll credits for use as local share to match FTA grants. The Federal Highway Administration (FHWA) oversees the determination of toll revenue credit within each state.
- c. Use of Program Income as Local Share. Program income generated by an earlier grant can be used as the local share in a subsequent eligible transit project. Program income means revenue generated directly or indirectly from grant-supported activities (i.e., income generated by grant funds after they have been applied to authorized grant purposes). In general, program income includes income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from advertising and concessions, and from the sale of commodities or items fabricated under a grant agreement. Except as otherwise provided in regulations, program income does not include interest on grant funds; nor does program income include rebates, credits, discounts, refunds, etc., and interest earned on any of them. FTA Circular 5010.1C, "Grant Management Guidelines," discusses program income in some depth, as does the Common Rule (49 C.F.R. Part 18) at Section 18.25. FTA Circular 5010.1C notes that a grantee may retain program income so long as it is used for transit purposes, that is, for allowable planning, capital, and operating expenses. Accordingly, FTA considers the use of program income as local share for an FTA grant an allowable expense. Program income cannot be used as the local share for the grant from which it was derived.

The grantee's accounting system must be capable of identifying program income and the purpose for which it was used. The grantee must account for program income in its accounting system, which is subject to audit.

Farebox revenue is a special form of program income. In a grant application requesting operating assistance, farebox revenue must be applied to operating costs to

reduce the figure for total operating cost of the project, in order to arrive at the net project cost. See Appendix D, "Operating Assistance Projects," for assistance in calculating the net project cost of a grant requesting operating assistance. In no event may farebox revenue be used as local share, although farebox revenue may be used as noted earlier in paragraph 7a to back bonds issued in support of capital projects, and the bond proceeds may be used as local share.

The unique treatment of certain advertising and concession revenues should be noted. While all revenues from these sources may be used as local share, the revenues a grantee earns from these sources in excess of the amounts earned from the same sources in (the grantee's) Fiscal Year 1985 may be used as local share or for any other purpose the grantee elects, including non-transit activities. That is to say, these excess revenues are a special form of program income recognized by Federal transit law.

- d. Not Program Income. Revenue generated by activities that are not grant supported is not program income (e.g., operation of charter or school buses when these activities are permissible).

Sales proceeds from the disposition of FTA-funded equipment and excess real property generally are not considered program income and may be retained as program income only if the purpose of the grant is achieved by the sale of the asset, as in some joint development activities. Sales proceeds may be retained to undertake a like-kind exchange also (see Appendix F), but the sales proceeds are not program income and are not to be used as local share; they may be used to reduce the gross project cost.

TEA-21 provides an additional option for handling proceeds from the sale of federally-funded assets. The new provision, amending 49 U.S.C. Section 5334(g), allows a grant recipient, with prior FTA approval, to use the net proceeds of the transaction to reduce the gross project cost of subsequent federally-assisted capital transit projects. Thus, such proceeds are not for use as local share. An example grant application applying the proceeds appears in Appendix F as "Proceeds from Sale of Assets." Also, see FTA Circular 5010.1C, "Grant Management Guidelines," for a discussion of the provision of TEA-21 regarding use of such proceeds.

- e. Use of Federal Funds as Local Share. In a very limited number of situations, Federal funds may be eligible for inclusion in the local match. Such use is dependent upon agreement by the Federal agency. As an example, Community Development Block Grant funds administered by the Department of Housing and Urban Development (HUD) may be used to provide the local share for Federal transit projects so long as the transit activities are eligible for assistance under the Community Development Program, and in compliance with HUD regulations, "Community Development Block Grants" 24 C.F.R. Part 570. (See 42 U.S.C. Section 5305(a)(9) and 24 C.F.R. Section 570.201(g)).

- f. Deferral of Payment of Local Share. A grant applicant may request that the local share for a project be deferred until 100 percent of the Federal funds have been drawn down. A request for the deferral should accompany the grant application. If a grant has already been approved, a written request to FTA must be made. Approval is contingent upon the deferral's resulting in benefits to transit and upon the grant applicant's demonstrating that the grant applicant has the financial capacity to complete the project. The deferred local share policy is not applicable to projects with Full Funding Grant Agreements. A grant applicant wishing to apply the Deferred Local Share initiative to a project should refer to 57 Fed. Reg., 30880, "Policy Statements on Local Share Issues," July 10, 1992.

8. GRANT APPLICATION PROCESS

- a. Complete Application. Chapter VI lists the specific grant application information that must be submitted in order to present a complete grant application under the Urbanized Area Formula Program. For a grant application to be complete, there must be a planning basis for every project or group of projects. All planning, programming, and ancillary activities must be completed. All requisite certifications and documentation must be completed, and the application must be in approvable form with all required information and submissions on hand, except for the labor protection certification, which is issued by DOL. All intergovernmental reviews and all applicable civil rights and anti-drug requirements must have been met. Some portions of a grant application require attention well before an actual application is submitted to FTA. Items that require early attention include appearance of the capital or operating assistance project in a metropolitan transportation improvement program (TIP) that has been approved by the Metropolitan Planning Organization (MPO) and the Governor and in a state transportation improvement program (STIP) that has been approved jointly by FTA and FHWA; appearance of a planning project in a Unified Planning Work Program; environmental reviews; applicable civil rights requirements; and clean air program requirements for conformity with the State Implementation Plan (SIP), for non-attainment and maintenance areas.
- b. Quarterly Release Cycle. FTA employs a quarterly release cycle for the Urbanized Area Formula Program. If a complete grant application is submitted to the FTA Regional Office by the first business day of the calendar quarter, FTA will approve and release the grant by the last business day of the quarter. The Federal fiscal year begins on October 1; thus, October begins the first quarter of the Federal fiscal year. The other first days of a quarter are, therefore, January 1, April 1, and July 1, or, in the event of a holiday or weekend, the first business days thereafter. Sometimes the enactment date of the Department of Transportation's annual appropriation requires adjustments in the application submission and processing dates for the first quarter.

Two factors would delay FTA's approval of a complete application beyond the end of the quarter. First is a failure by the Department of Labor to issue a certification of the labor protective arrangements where such certification is a prerequisite to a grant approval, and second is the failure of FHWA to actually transfer flexible funds.

Incomplete grant applications will not be processed, but if the missing components are supplied, the grant applications will be processed in the next quarter.

In order to expedite the grant approval process within the quarterly approval structure, grant applications that are complete and have received the required Department of Labor certification may be approved before the end of a quarter.

It is the policy of FTA to expedite grant application reviews and speed program delivery by reducing the number of grant applications. To this end, FTA strongly encourages grant applicants to submit only one application per fiscal year for each formula program, i.e., a single application per year for all the grant applicant's Section 5307 activities. The single application should contain the fiscal year's capital (including flexible funds), planning, and operating elements.

- c. Electronic Award and Management. FTA is implementing a series of automation improvements in the grant award and management process that is designed to improve customer service and efficiency of program delivery. FTA provides a streamlined electronic interface between grantees and FTA that allows complete electronic grant application submission, review, approval, and management of all grants. Grantees may inquire about the status of grants, file their required quarterly financial status and narrative progress reports, and make annual certifications and assurances through the system. The Department of Labor, also participating in the program, receives requests electronically for Transit Employee Protective Certification of projects. DOL will electronically issue the Transit Employee Protective Certifications.
  - d. Certifications and Assurances. The FTA is required to obtain specific certifications and assurances pertaining to the Urbanized Area Formula Program (as well as to other FTA programs). As noted in paragraph c above, grantees now are able to provide electronically each certification and assurance that will apply to the applicant's grants for the particular year. Certifications and assurances are discussed in Chapter V at paragraph 3.
9. PROGRAMMING OF ALL URBANIZED AREA FORMULA FUNDS. If there are Urbanized Area Formula Program funds that remain unprogrammed in an urbanized area (that is, are not yet in an approved STIP), FTA will not allocate discretionary bus and bus related funds under the FTA Capital Program (49 U.S.C. Section 5309) to the area until all the available Urbanized Area Formula Program funds have been programmed.



10. OTHER FUNDS AVAILABLE FOR TRANSIT PROJECTS. TEA-21 established several new transit-related programs. Funds from these programs may be available to support projects assisted with Urbanized Area Formula Program funds and Urbanized Area Formula Program funds may complement the use of funds from the newly established programs. A brief discussion of the new programs follows.

- a. Clean Fuels Formula Program. The Clean Fuels Formula Program was authorized by TEA-21 to support the purchase or lease of clean fuel buses and facilities and the improvement of existing facilities to accommodate clean fuel buses. Eligible grant recipients are transit operators that are public bodies providing transit service in either urbanized or non-urbanized non-attainment or maintenance areas as defined by the Clean Air Act. (42 U.S.C. §§ 7401 et seq. and scattered sections of 29 U.S.C.)

A clean fuel vehicle means a vehicle powered by compressed natural gas, liquefied natural gas, biodiesel fuels, batteries, alcohol-based fuels, hybrid electric, fuel cell and certain clean diesel, or other low or zero emissions technology, and which the Environmental Protection Agency (EPA) has certified sufficiently reduces harmful emissions.

This is a formula program. The formula is applied on the basis of the grant applications submitted. Grant applications must be submitted by January 1 of each fiscal year. By February 1 of each fiscal year, FTA must apportion funds to the grant applicants. Two-thirds of the funds available are to be apportioned to grantees in urbanized areas with populations of a million and over, and one-third is to be apportioned to grantees in urbanized areas with populations under a million. Formula weighting factors, distinguished between the over-a-million and under-a-million populations, include proportion of the grant applicant's bus fleet to the total number of vehicles of all grant applicants in the population division, severity of non-attainment for the urbanized area in which the project is located, and proportion of bus passenger miles of the total bus passenger miles of all grant applicants in the population division. There are limitations within the program on amounts that may be awarded for single grants and for some types of projects.

The Clean Fuels Formula Program begins with FY 1999 and is authorized at \$200 million a year for the remaining five years of TEA-21. (A subsequent Congressional appropriation may result in an amount available to a program that is less than the amount authorized.) Funds are available to a project for the year of appropriation, plus one year more. FTA will develop regulations and guidance for the program's administration.

- b. Job Access and Reverse Commute Program. This program is to develop additional transportation services needed to connect welfare recipients and other persons of low income to jobs and needed support services. The program is authorized in

Section 3037 of TEA-21. TEA-21 authorizes \$150 million annually, beginning with FY 1999. (A subsequent Congressional appropriation may result in an amount available to a program that is less than the amount authorized.) A "job access" project is a project designed to transport welfare recipients and eligible individuals with low income to and from jobs and activities related to their employment. A "reverse commute" project is a project related to the development of transportation services designed to transport residents from urban areas, urbanized areas, and nonurbanized areas to opportunities for employment in suburbs. Reverse commute projects are not tied to the income of the commuter, although the number of welfare recipients in the area to be serviced by the project is to be taken into account. Up to \$10 million a year is authorized for reverse commute projects.

The program has a 50 percent Federal share. There will be a competitive grant selection process. The portion of the total project cost that is not funded by the Job Access and Reverse Commute Program may be derived from amounts appropriated or made available to another department or agency of the Federal Government (not the Department of Transportation), if the funds are eligible to be expended for transportation. The requirements of the Urbanized Area Formula Program and all planning requirements under Sections 5303 through 5306 apply to the grants awarded for the Job Access and Reverse Commute Program. FTA will issue guidance and application instructions.

- c. Over-the-Road Bus Accessibility Program. TEA-21 established the Rural Transportation Accessibility Incentive Program, hereinafter referred to as the Over-the-Road Bus Accessibility Program. This program is designed to assist operators of over-the-road buses to finance the incremental capital and training costs of complying with the Department of Transportation's anticipated final rule regarding accessibility of over-the-road buses required by the Americans with Disabilities Act. The Federal share of these projects is 50 percent of the project cost.

Beginning in FY 1999, funding will be available for operators of over-the-road buses in intercity fixed route service, starting with \$2 million in FY 1999 and increasing to \$5.25 million in FY 2003. In addition, beginning in fiscal year 2000, an additional \$6.8 million will be available for FY 2000 through FY 2003 for operators of other over-the-road bus service, including local commuter service and charter or tour service. Total funding authorized through FY 2003 is \$17,500,000 for fixed route over-the-road bus operators and \$6,800,000 for operators of other over-the road bus services. A national solicitation for applications will be conducted, and grant recipients will be selected on a competitive basis. FTA will issue implementing guidance.

- d. Transportation and Community and System Preservation Pilot Program. TEA-21 at Section 1221 established a pilot program in the Highway program "to investigate and

address the relationships between transportation and community and system preservation and identify private sector-based initiatives." The allocation of funds is available for obligation for any project eligible for funding under title 23, the highway program, or under chapter 53 of title 49, U.S.C., the transit program. States, local governments, and Metropolitan Planning Organizations (MPOs) are eligible for the funds.

The purposes of this new program are to improve the efficiency of the transportation system; reduce transportation's impacts on the environment; reduce the need for costly future investments in public infrastructure; provide efficient access to jobs, services, and centers of trade; and examine development patterns and identify strategies to encourage private sector development patterns that achieve the first four purposes. The initiative includes a research program to investigate these relationships; funds for states, MPOs, and local governments to create strategies to integrate transportation and community and system preservation plans and practices; and funds to address transportation efficiency and community and system preservation. Types of projects listed as eligible for funding include "corridor preservation activities . . . necessary to implement transit-oriented development plans."

TEA-21 authorizes an apportionment from the Highway Trust Fund of \$20 million for FY 1999 and \$25 million for each of fiscal years 2000 through 2003. The Federal Highway Administration issued implementing guidelines in the Federal Register on September 16, 1998 (63 Fed. Reg. 49632 et seq.)(1998).



## CHAPTER II

### APPLICANT ELIGIBILITY

1. **DESIGNATED RECIPIENTS.** A primary eligibility requirement for funding under the Urbanized Area Formula Program is the designation of a grant recipient. The recipient (or recipients) so designated in each urbanized area must be a public body and have the legal authority to receive and dispense Federal funds in the urbanized area. Designations submitted to FTA are one-time submissions and need not be resubmitted. More specific information regarding designated recipients follows.
  - a. The Governor, responsible local officials, and publicly owned operators of transit services jointly will designate a recipient to apply for, receive, and dispense funds for "transportation management areas," pursuant to 49 U.S.C. Section 5307(a)(2). Generally, a transportation management area is an urbanized area with a population of 200,000 and over. Please see paragraph 2 for a discussion of transportation management areas. When an urbanized area extends into more than one state and the transit providers are also located in more than one state, more than one Governor will participate in the designation of the designated recipient(s).
    - (1) To the extent possible, a single recipient should be designated for each transportation management area or for contiguous areas; and
    - (2) Any statewide or regional agency responsible under state law for financing, construction, or operation directly, by lease, contract, or otherwise of public transit services will be named a designated recipient by the Governor, responsible local officials, and providers of publicly owned transit services.
  - b. The Governor or the Governor's designee(s) is (are) the designated recipient(s) for urbanized areas under 200,000 in population, except for designated transportation management areas that are under 200,000. See paragraph 2 below for information about transportation management areas.
  - c. Designations remain in effect until they are amended or rescinded.
  - d. If the documentation needed to designate a recipient has not been submitted, or if an amendment or rescission requires that new documents be submitted, the new documentation must include the following:
    - (1) For areas 200,000 and over in population
      - (a) a letter expressing the Governor's concurrence, and

- (b) concurrence in the designated recipient by the providers of publicly owned transit service in the urbanized area, and an appropriately certified resolution of the Metropolitan Planning Organization (MPO) concurring in the designation.
- (2) For areas under 200,000 in population, if the Governor chooses to retain designated recipient status, no documentation need be submitted. Alternatively, the Governor may choose to designate one or more local recipients for each of these areas or may delegate authority to another state agency. That agency may, in turn, retain its designation or redesignate individual local recipients for each area. In each instance, such designations must be documented by letter from the Governor to FTA.
  - (3) For each designated recipient, an Opinion of Counsel must be submitted certifying the entity's legal capacity to perform the functions of a designated recipient.
2. DESIGNATED TRANSPORTATION MANAGEMENT AREAS. All urbanized areas with populations of 200,000 and over have been designated as transportation management areas (TMAs) in accordance with 49 U.S.C. Section 5305(a). These designations were made in 57 Fed. Reg. 21160, May 18, 1992. Additional areas may be designated as TMAs by the Secretary of Transportation upon the request of the Governor and the Metropolitan Planning Organization (MPO) designated for such area or the affected local officials.

Guidance for setting the boundaries of TMAs is contained in the joint transportation planning regulations contained in 23 C.F.R. Part 450. In some cases, the TMA boundaries that have been established by the MPO for the designated TMA also include one or more urbanized areas with populations under 200,000. Where this situation exists, the discretion of the Governor to allocate "Governor's Apportionment" funds for urbanized areas under 200,000 in population is restricted to those areas with populations under 200,000 that are not located within the boundaries of a TMA.

A recipient or recipients must be designated to dispense the Urbanized Area Formula Program funds attributable to TMAs. Those areas that do not already have a designated recipient must name one and notify the appropriate FTA Regional Office of the designation. This would include those urbanized areas under 200,000 in population that may receive TMA designation independently, or those under 200,000 that are included within the boundaries of a larger designated TMA.

In order for the FTA and Governors to know which urbanized areas under 200,000 in population are included within the boundaries of an existing TMA, so the areas can be identified in future notices of apportionment published by the FTA, each MPO whose TMA planning boundaries include smaller urbanized areas has been asked to identify these urbanized areas to the FTA. Governors' apportionment funds allocated to these smaller

urbanized areas may not be redistributed by the Governor without the concurrence of the small urbanized area involved. However, if these funds are remaining available for obligation at the beginning of the 90-day period before the expiration of the period of availability of such amounts, they shall be available to the Governor for use throughout the state.

3. APPLICANTS OTHER THAN DESIGNATED RECIPIENTS. A designated recipient may authorize another public agency to be the direct applicant for Urbanized Area Formula Program funds. This authorization may be made on a one-time basis or at the time of each application submission, at the option of the designated recipient. FTA must be informed of the arrangement at the time the grant application is submitted. A public agency, other than the designated recipient, may apply for some or all of the urbanized area's Urbanized Area Formula Program apportionment if:
  - a. The designated recipient authorizes the public agency to do so;
  - b. The public agency submits its own grant application; and
  - c. Upon award of the grant, the designated recipient and the public agency execute a supplemental agreement, which releases the designated recipient from any liability under the grant agreement. The language FTA uses for a supplemental agreement appears in Appendix F.
  
4. PASS-THROUGH ARRANGEMENTS. An Urbanized Area Formula Program grantee, whether a designated recipient or not, may choose to pass its grant funds through to another agency to carry out the purposes of the grantee's agreement with FTA. To do this, the grantee must enter into a written agreement with the subrecipient that assures FTA that the grantee will be able to comply with its obligation to satisfy the requirements of the grant agreement. A grantee choosing to pass through funds must inform the FTA Regional Office of the arrangement in the grant application or through other documentation. The grantee must also inform the FTA of any changes in that arrangement during the life of the grant. A pass-through arrangement does not relieve the grantee of its responsibilities to carry out the terms and conditions of the grant agreement.





## CHAPTER III

### ELIGIBLE GRANT ACTIVITIES

1. GENERAL. Grants under the Urbanized Area Formula Program are available to finance planning projects and to finance capital projects. Capital projects entail acquisition, construction, improvement, and maintenance of facilities and equipment for use in transit. Grants are also available in urbanized areas under 200,000 in population to finance transit-related operating costs. A discussion of the many types of projects for which FTA provides assistance pursuant to the Urbanized Area Formula Program follows. Operating assistance projects and planning projects are described first; the remainder of the chapter addresses eligible capital projects.

Every capital and operating project for which assistance is requested from FTA must first be included in a metropolitan transportation improvement program (TIP) approved by the Metropolitan Planning Organization (MPO) and in a statewide transportation improvement program (STIP) approved by the Governor and approved jointly by the FTA and the FHWA. A planning project need not be programmed in the TIP and STIP, but must be programmed in the appropriate Unified Planning Work Program endorsed by the MPO. A planning study assisted with capital funds administered by the FHWA (for example, funds under the Surface Transportation Program (STP), Congestion Mitigation and Air Quality (CMAQ), or National Highway Systems (NHS) programs), must be programmed both in the Unified Planning Work Program and the TIP.

2. OPERATING ASSISTANCE. Effective with FY 1999 funds, the Urbanized Area Formula Program provides operating assistance only for urbanized areas with populations under 200,000. There is no limitation on the amount of a grant recipient's apportionment that may be used for operating costs. In general, operating assistance is no longer available to urbanized areas with populations of 200,000 and over.

Appendix D. Further discussion of operating assistance procedures appears in Appendix D, "Operating Assistance Projects."

3. PLANNING ASSISTANCE.
  - a. Eligible Projects. Urbanized Area Formula Program funds are available for contracts and grants for the planning, engineering design and evaluation of transit projects and for other technical transportation-related studies. Eligible activities include, but are not limited to, studies relating to management, operations, capital requirements and economic feasibility; preparation of engineering and architectural surveys, plans and specifications; evaluation of previously funded projects; and other similar or related activities prior to and in preparation for the construction, acquisition, or improved

operation of transit systems, facilities, and equipment. Planning assistance is available at the 80/20 Federal/local share ratio.

- b. Funding. The basic comprehensive transportation planning program--including pass-through to transit operators for work activities best performed by the operators--should continue to be funded through the FTA formula planning program, Metropolitan Planning, authorized by 49 U.S.C. Section 5303. However, Urbanized Area Formula Program funds may be used to supplement these planning activities. Use of Urbanized Area Formula Program funds is encouraged for technical studies of special interest to the operator, such as maintenance plan development, operational service planning, and management and operation planning studies; for example, the public transportation management system, when the planning resource authorized by 49 U.S.C. Section 5303 is insufficient to meet such needs. Similarly, where a high-cost study is proposed, such as one for major capital investments, Urbanized Area Formula Program funds may be used to supplement available separate formula planning funds and FHWA planning ("PL") funds.
  - c. Planning Emphasis Areas. FTA, cooperatively with FHWA, develops Planning Emphasis Areas (PEA's), which identify national areas of strategic focus that warrant consideration in the metropolitan and statewide transportation planning processes. PEA's are suggested to state and local officials and transit operators as a guide to considering national emphasis areas during statewide and metropolitan planning. As PEA's are identified and promoted for use in planning processes, they are typically published in FTA's Annual Apportionment Notice; this is posted on the FTA Home Page at [www.fta.dot.gov](http://www.fta.dot.gov). The last set of PEA's issued before this circular's publication appeared in the FTA 1998 Notice of Apportionments and Allocations, in the Federal Register on December 5, 1997 (62 Fed. Reg., 64456,(1997)). In addition to periodically updating PEA's, FTA also works with FHWA and stakeholders in preparing guidance and resource materials for relating the PEAS's to statewide and metropolitan planning.
4. CAPITAL PROJECTS. Urbanized Area Formula Program funds are available for a wide range of capital assistance activities. Examples of eligible activities that indicate the breadth of the program are provided in paragraphs a and b below. In addition, funds may be used to support the cost of "preventive maintenance," discussed in paragraph 4c, and "transit enhancements," discussed in Chapter V in paragraph 5q. Urbanized Area Formula Program funds may be used to acquire "associated capital maintenance items" (spare parts) as outlined in paragraph 4g. As noted in Chapter I, capital funding is available at an 80 percent Federal share. Additionally, capital funding at a Federal share of 90 percent is available for vehicle-related equipment purchased to be in compliance with the Americans with Disabilities Act of 1990 and the Clean Air Act Amendments of 1990, and for projects improving access for bicycles to transit facilities. Bicycle access to transit, when the project is a transit enhancement project, is assisted with a Federal share of 95 percent. The Federal

share may differ for some flexible funds transferred from FHWA; see Appendix E, "Procedures Related to Flexible Funding."

a. Bus and Bus-Related Activities:

- (1) Public buy-out of private operators;
- (2) Replacement of buses;
- (3) Overhaul of buses (includes paratransit vehicles);
- (4) Rebuilding of buses;
- (5) Expansion of bus fleets;
- (6) Crime prevention and security equipment;
- (7) Purchase and installation of service and support equipment;
- (8) Accessory and miscellaneous equipment such as mobile radio units, bus stop signs, supervisory vehicles, fareboxes, computers, and shop and garage equipment;
- (9) Construction of maintenance facilities, including land acquisition, design, engineering, demolition;
- (10) Rehabilitation of maintenance facilities, including design and engineering, land acquisition, and relocation;
- (11) Construction of other facilities, e.g., transfer facilities, intermodal terminals and bus shelters, including design and engineering, land acquisition, etc.; and
- (12) Capital support equipment, including computer hardware, software, bus diagnostic equipment, and other equipment that enhances operating efficiency.

b. Fixed-Guideway Systems

- (1) Rolling stock, including rail cars, locomotives, work trains, ferryboats;
- (2) Overhaul of vehicles;
- (3) Rebuilding of vehicles;

- (4) Track;
- (5) Line equipment;
- (6) Line structures;
- (7) Passenger stations, depots and terminals, including ferry terminals;
- (8) Signals and communications;
- (9) Power equipment and substations;
- (10) Projects to improve safety and security;
- (11) Operational support, including computer hardware and software;
- (12) Systems extensions or new system construction, including engineering, demolition, etc.; and
- (13) Land acquisition, design, and construction for fixed guideways.

The lists above are representative of eligible projects, but are not all-inclusive. Please contact the appropriate FTA Regional Office regarding the eligibility of other projects.

If a program category represents an individual project, it should include all of its associated costs, including land acquisition, relocation, demolition, engineering, construction, construction management, equipment acquisition, force account, and administration.

- c. Preventive Maintenance. Preventive maintenance, an expense that became eligible for FTA capital assistance for one year with the DOT 1998 Appropriations Act, was established as eligible for FTA capital assistance under TEA-21, so FY 1998 funds and subsequent fiscal year appropriations may be used for preventive maintenance. Preventive maintenance costs are defined as all maintenance costs. For general guidance regarding eligible maintenance costs, the grantee should refer to the definition of "maintenance" in the most recent National Transit Database reporting manual. A grantee may continue to request assistance for capital expenses under the FTA policies governing associated capital maintenance items (spare parts), maintenance of vehicles leased under contract, vehicle overhauls (major re-work), mid-life rebuilds (rail), and end-of-life rebuilds; or a grantee may choose to capture all maintenance under preventive maintenance.<sup>1</sup> If a grantee purchases service instead of

<sup>1</sup> In March 1996 to assist with operating costs, FTA announced that 20 percent of annual vehicle maintenance costs would be available for FTA assistance at the Federal/local share ratio of 80/20. Because all maintenance was made eligible for assistance at the capital rate by

operating service directly, and maintenance is included in the contract for that purchased service, then the grantee may apply for preventive maintenance capital assistance under the capital cost of contracting policy.

For accounting purposes, the grantee is cautioned not to confuse the fact that an item generally considered to be an operating expense is eligible for FTA capital assistance. Generally accepted accounting principles and the grantee's accounting system determine those costs that are to be accounted for as operating costs. The National Transit Database Reporting System (NTD) follows generally accepted accounting principles, and so a grant recipient reporting to the NTD must report the operating costs the grant recipient has incurred as operating costs regardless of the costs' eligibility for FTA capital assistance. Nevertheless, under provisions of the fiscal year 1998 Appropriations Act, and subsequently under provisions of TEA-21, some of those operating costs, while continuing to be accounted for as operating costs in the grant recipient's accounting records, are now eligible for FTA capital assistance. Grantees may not count the same costs twice.

- d. ADA Complementary Paratransit Service. TEA-21 expanded the definition of an eligible capital project to include the operating cost of providing ADA complementary paratransit service, under certain limitations. The 80/20 Federal/local funding ratio is applicable for such projects. ADA complementary paratransit service means service provided complementary to existing fixed-route service.

Under the new provision, a capital project now includes "...the provision of nonfixed route paratransit transportation in accordance with Section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only for grant recipients that are in compliance with the applicable requirements of that Act, including both fixed route and demand responsive service, and only for amounts not to exceed 10 percent of such recipient's annual formula apportionment under section 5307 and 5311."

With this change, transit systems may use up to 10 percent of their annual formula apportionment to pay for ADA paratransit operating costs. Section 223 of the ADA defines the specific type of paratransit service that is eligible for this new provision and corresponds to Subpart F of the Department of Transportation's ADA regulation, which ( at 49 C.F.R. Part 37) explains the ADA paratransit eligibility process, the service criteria (service area, response time, fares, trip purpose restrictions, hours and days of service and capacity constraints), and the ADA paratransit plan process.

- (1) ADA Compliance. Eligibility for using this expanded definition of capital is dependent upon compliance with ADA requirements. Currently, FTA grantees are required to certify compliance with ADA on an annual basis.  
Non-compliance with ADA is the result of a formal determination by FTA.  
Transit systems determined as being in non-compliance are not eligible to use

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TEA-21, FTA intends to eliminate the budget activity line item, "vehicle overhaul - 20%," effective with FY 2000 funding.

this provision. Grantees who do not make satisfactory progress in negotiating voluntary compliance agreements or who do not achieve milestones within signed agreements will lose their eligibility for this ADA complementary paratransit benefit.

- (2) Non-ADA Paratransit. Costs associated with non-ADA paratransit programs are not eligible for this funding option. Such costs include the provision of demand responsive services that are not ADA-complementary paratransit.
  - (3) Time of Costs Incurred. FTA reimbursement at the 80 percent Federal share for ADA paratransit costs related to this provision must be by means of a grant awarded after June 9, 1998, the date of enactment of TEA-21, and costs must have been incurred in a local fiscal year ending after June 9, 1998.
  - (4) UZA's with More than One Grantee. For those urbanized areas with more than one grantee, it will be the responsibility of the Metropolitan Planning Office, working with transit operators, to allocate the 10 percent of the urbanized area's apportionment that may be used for ADA paratransit purposes.
- e. Leasing Capital Assets. Transit equipment and facilities may be acquired by lease, purchase, or construction. When a grantee leases tangible capital assets from another party, leasing costs are eligible for capital assistance, provided leasing is more cost-effective than purchase or construction. Leasing costs eligible for capital assistance include finance charges, including interest; ancillary costs such as delivery and installation charges; and maintenance costs. The FTA leasing policy is at 49 C.F.R. Part 639, "Capital Leases." Section 639.17 of that policy was amended in May 1996 to make maintenance costs under a commercial lease of a capital asset an eligible capital expense, and to make clear that any asset leased under 49 C.F.R. Part 639 must be eligible for capital assistance under a traditional purchase or construction grant (61 Fed. Reg. 25088, May 17, 1996).
- f. Capital Cost of Contracting. Some FTA grantees turn to an outside source to obtain transit service, or maintenance service, or vehicles that the grantee will use in transit service. When grantees contract for such service, FTA will provide assistance with the capital consumed in the course of the contract. In the case of a contractor's providing vehicles for transit service, the capital consumed is equivalent to the depreciation of the vehicles in use in the transit service during the period of the contract. In the case of a maintenance contract, the capital consumed may be, for example, depreciation of the maintenance garage, or depreciation of the machine that lifts the vehicle. Capital consumed may also include a proportionate share of the interest the contractor might pay out as the contractor purchases and makes available to the grantee these capital assets. The concept of assisting with capital consumed is referred to as the "capital

cost of contracting." FTA will provide assistance at the 80/20 FTA/local share ratio for the capital cost of contracting.

Only the costs attributable to privately owned assets are eligible under this policy. Items purchased with Federal, state, or local government assistance are not eligible. Capital consumed for service or maintenance in the provision of service outside the transit portion of the contract, such as for charter or school bus service, is not an eligible cost.

In addition, FTA provides assistance for preventive maintenance, which has been defined as all maintenance and which is discussed in paragraph a above. In some instances, grantees contract with outside sources both for maintenance and for transit service, with the contractor providing both maintenance and vehicles. In such cases, both the capital cost of contracting concept and preventive maintenance will apply.

In order to avoid imposing burdensome accounting rules, with regard to contracts for bus- and paratransit-related services, FTA will allow a percentage of leased service or contracted maintenance to be considered capital costs without further justification and will provide assistance for 80 percent of the resultant amount. The percentages and the corresponding type of contract service are shown in EXHIBIT III-1 for bus and paratransit-related services. The percentages are calculations using data from the National Transit Database. 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.

The table of EXHIBIT III-1 is based on the assumption that the contractor provides the assets. Thus, for example, if a contractor provides maintenance, it is assumed in the calculations that the contractor does so in a facility provided by the contractor.

A grant applicant may request FTA participation in a higher percentage of the contract than is shown in the table, but must provide actual costs. Rail-related contracts will be evaluated on a case-by-case basis.

A grant applicant applying for assistance with costs that contain any of the capital costs of contracting permutations listed in EXHIBIT III-1 may list costs for the contracted service all in the capital cost of contracting budget category, or the grantee may use both that category and another appropriate category such as preventive maintenance or leasing.

## EXHIBIT III-1

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

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

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

- g. Associated Capital Maintenance Items (spare parts). Certain spare parts are to be considered an eligible capital expense if the spare parts qualify as "associated capital maintenance items." Associated capital maintenance items are defined as those items that cost at least one-half of one percent of the current fair market value of the rolling stock on which the item is to be used. Associated capital maintenance items include, for example, tires, tubes, and repair kits. As administered by FTA, to be eligible for capital assistance under this category, an item must cost no less than one-half of one percent of the value of the grant applicant's average fleet vehicle (using the type of fleet for which the equipment or material is being acquired) when that average vehicle



has been depreciated by the straight-line depreciation method. Further discussion of associated capital maintenance items and a sample calculation appear in Chapter V.

- h. Education and Training. Title 49 U.S.C. Section 5315(d) permits up to one-half of one percent of Urbanized Area Formula Program and Capital Program ( 49 U.S.C. Section 5309) funds available to a state or public transit agency grantee in a fiscal year to be used for tuition and direct educational expenses for transportation employees for educational and training programs relating to transit, at a Federal share not to exceed 80 percent. Proposed training activities to be supported with Urbanized Area Formula Program funds should be included in the grantee's Urbanized Area Formula Program application. In addition, proposed training must be reflected in the TIP and STIP.
- i. Design and Art in Transit. Capital funds may be used to incorporate design and artistic considerations into transit projects. See FTA Circular 9400.1A, "Design and Art in Public Transit Projects."
- j. Innovative Financing. Grant applicants--especially applicants wishing to undertake major projects--are encouraged to explore alternative and innovative methods of financing transit projects. Alternative financing can involve combining multiple, nontraditional sources of funding--Federal, state, local, and private--in support of transit capital and operating needs. Some approaches grant applicants might investigate include leasing arrangements, joint development, state economic development or revolving loan funds, exchanges of real property, and in-kind contributions. For projects exceeding \$100 million in cost, grantees may wish to consider a loan or loan guarantee, as provided under the Transportation Infrastructure Financing and Innovation Act (TIFIA), Section 1501 of TEA-21 (23 U.S.C. § 181 et seq.). Such loans or loan guarantees would be repaid with local dedicated funds or user fees.
- k. Rail Trackage Agreements. Capital portions of rail trackage rights agreements are also eligible for Urbanized Area Formula Program capital assistance (a provision of the Department of Transportation and Related Agencies Appropriations Act, 1995, Public Law 103-331).
- l. Joint Development Projects. Urbanized Area Formula Program funds may be used to support joint development projects. Joint development projects are commercial, residential, industrial, or mixed-use developments that are induced by or enhance the effectiveness of transit projects. Joint development projects have historically most often been assisted through the FTA Capital Program (authorized by 49 U.S.C. Section. 5309). TEA-21 provides that all FTA grant programs may provide assistance for joint development projects. TEA-21 also introduced additional activities that may be eligible costs in a joint development project; these are facilities of a joint development project that incorporate community services such as day care or health

care. Guidelines attendant to joint development projects are provided in FTA Circular 9300.1A, "Capital Program: Grant Application Instructions," in Appendix B.

- m. Livable Communities. FTA also has established "initiatives" on which it encourages grantees to focus. In 1994, for example, FTA established the "livable communities initiative" to emphasize the FTA goal of strengthening the link between transit and communities. This initiative promotes customer-friendly, community-oriented, and well-designed transit facilities and services. Projects that are physically or functionally related to transit and support the concept of livable communities by enhancing personal mobility, increasing transit patronage, and improving the quality of community life are eligible for funding under the Urbanized Area Formula Program. Community-sensitive transit projects are ones that support mixed-use development and incorporate on-site services to help foster livable communities. It is important that the transit investments reinforce land-use policies that encourage transit-oriented development. Other examples of transit projects that enhance community livability are those that contain pedestrian-oriented physical improvements and enhance the convenience and security of transit customers.
  - n. Technology Introduction. Urbanized Area Formula Program funds may be used for capital projects that introduce new technology. FTA encourages suppliers to produce and transit providers to introduce new technology in transit service, in the form of innovative and improved products. Eligibility criteria for capital projects that introduce new technology are provided in Chapter V, paragraph 22 .
  - o. Intelligent Transportation Systems. TEA-21 expanded the definition of a capital project to include transit-related intelligent transportation systems (ITS). ITS refers to the use of electronics, communications, or information processing used singly or in combination to improve efficiency or safety of a transit or highway system. Examples of transit-related ITS projects include automatic vehicle location, automated passenger counters, vehicle component monitoring (diagnostics), advanced fare payment methods, computer-aided dispatching, real-time ridesharing, and automated information for travelers using more than one mode of transportation.
  - p. Interest. Interest is an eligible capital cost. Please see Appendix H for discussion of the six areas in which interest is an eligible project cost.
5. ELIGIBLE PROJECT COSTS IN ADVANCE OF AWARD. FTA uses three mechanisms that allow a grant applicant to incur project costs without first receiving formal FTA project approval. By means of these mechanisms a grant applicant may spend local funds for project activities and be reimbursed by FTA if and when a project is approved. The three are discussed below.

It is important to note that a grant applicant with the requisite authority to proceed with project activities must take care to avoid prejudicing the legal and administrative findings

FTA must make before approving financial assistance. That is, the grant applicant must comply with all applicable Federal statutory, procedural, and contractual requirements in carrying out its project, in order for FTA to be able later to provide financial assistance for the project.

a. Blanket Authority Under Formula Programs to Incur Pre-award Costs. Authority to incur costs for FY 1998 Urbanized Area Formula Program funds in advance of possible future Federal participation was provided in the Federal Register Notice of December 5, 1997 ("FTA Fiscal Year 1998 Apportionments, Allocations and Program Information." 62 Fed. Reg. 64456 (1997)). In the June 24, 1998 Federal Register Notice on FTA Transit Program Changes (63 Fed. Reg. 34506 (1998)), pre-award authority was extended to future formula funds to be apportioned during the authorization period of TEA-21, 1998-2003. This pre-award authority also applies to projects intended to be funded with STP or CMAQ funds transferred to the Urbanized Area Formula Program for the 1998-2003 authorization period of TEA-21. Pre-award authority applies to FTA funds and flexible funds provided the conditions in paragraphs (1) and (2) below are met. Pre-award authority also applies to preventive maintenance costs incurred within a locally defined fiscal year ending during calendar year 1997, or thereafter.

- (1) Conditions. FTA specified the following conditions under which the blanket pre-award authority may be used:
  - (a) This pre-award authority is not a legal or moral commitment that the project(s) will be approved for FTA assistance or that FTA will obligate Federal funds. Furthermore, it is not a legal or moral commitment that all items undertaken by the applicant will be eligible for inclusion in the project(s).
  - (b) All FTA statutory, procedural, and contractual requirements must be met at the appropriate time.
  - (c) No action will be taken by the grantee that prejudices the legal and administrative findings which the Federal Transit Administrator must make in order to approve a project.
  - (d) Local funds expended by the grantee pursuant to and after the date of this authority will be eligible for credit toward local match or reimbursement if FTA later makes a grant for the project(s) or project amendment(s).
  - (e) The Federal amount of any future FTA assistance to the grantee for the project will be determined on the basis of the overall scope of activities and the prevailing statutory provisions with respect to the Federal-local match ratio at the time the funds are obligated.

- (f) The blanket authority to undertake projects in advance of award runs concurrent with the period of availability of the funds to which the authority applies. Thus, for example, for fiscal year 1999 Urbanized Area Formula Program funds, pre-award authority is available in the year the 1999 funds are appropriated, plus three years.
- (2) Environmental, Planning, and Other Requirements. FTA emphasizes that all of the Federal grant requirements must be met for the project to remain eligible for Federal funding. Some of these requirements must be met before pre-award costs are incurred, notably requirements of the National Environmental Policy Act (NEPA) and the planning requirements. Compliance with NEPA and other environmental laws or executive orders (e.g., protection of park lands, wetlands, historic properties) must be completed before state or local funds are spent on implementing activities such as final design, construction, and acquisition for a project that is expected to be subsequently funded with FTA funds. Depending on which class the project is included under in FTA environmental regulations (23 C.F.R. part 771), the grantee may not advance the project beyond planning and preliminary engineering before FTA has approved either a categorical exclusion (refer to 23 C.F.R. part 771.117(d)), a finding of no significant impact, or a final environmental impact statement.

The conformity requirements of the Clean Air Act (40 C.F.R. Part 93) also must be fully met before a project for which Federal funds will be requested may be advanced with non-Federal funds.

Similarly, the requirement that a project be included in a locally adopted metropolitan transportation improvement program and a federally approved statewide transportation improvement program must be met before the project may be advanced with non-Federal funds. In addition, Federal procurement procedures, as well as the whole range of Federal requirements, must be followed for projects in which Federal funding will be sought in the future. Failure to follow any such requirements could make the project ineligible for Federal funding. In short, the increased administrative flexibility allowed by the pre-award authority requires a grantee to make certain that no Federal requirements are circumvented through its use.

The U.S. Department of Labor certification of the labor protective arrangements does not have to be in place before costs are incurred under this blanket authority, but does have to be in place before Federal funds can be awarded.

If a grant applicant has questions or concerns regarding the environmental requirements, or any other Federal requirements that must be met before incurring costs, the grant applicant should contact the appropriate Regional Office.

- b. Letter of No Prejudice. Letter of No Prejudice authority allows an applicant to incur costs on a future project using non-Federal resources with the understanding that the

costs incurred after the LONP is issued may be reimbursable as eligible expenses or eligible for credit toward the local match should the FTA approve the project at a later date. LONPs are applicable to projects not covered by automatic pre-award authority. The majority of LONPs will be for New Starts not covered under a full funding grant agreement or for Capital Program (49 U.S.C. Section 5309) bus funds not yet appropriated by Congress. At the end of an authorization period, there may be LONPs for formula funds beyond the life of the current authorization.

Under most circumstances the LONP will cover the total project. Under certain circumstances the LONP may be issued for local match only. In such cases the local match would be to permit real estate to be used for match for the project at a later date.

- (1) Conditions. The following conditions apply to all LONPs.
  - (a) LONP pre-award authority is not a legal or moral commitment that the project(s) will be approved for FTA assistance or that FTA will obligate Federal funds. Furthermore, it is not a legal or moral commitment that all items undertaken by the applicant will be eligible for inclusion in the project(s).
  - (b) All FTA statutory, procedural, and contractual requirements must be met.
  - (c) No action will be taken by the grantee that prejudices the legal and administrative findings which the Federal Transit Administrator must make in order to approve a project.
  - (d) Local funds expended by the grantee pursuant to and after the date of the LONP will be eligible for credit toward local match or reimbursement if FTA later makes a grant for the project(s) or project amendments(s).
  - (e) The Federal amount of any future FTA assistance to the grantee for the project will be determined on the basis of the overall scope of activities and the prevailing statutory provisions with respect to the Federal/local match ratio at the time the funds are obligated.
- (2) Environmental, Planning, and Other Federal Requirements. As with automatic pre-award authority, FTA emphasizes that all of the Federal grant requirements must be met for the project to remain eligible for Federal funding. Some of these requirements must be met before pre-award costs are incurred, notably the requirements of the National Environmental Policy Act (NEPA), and the planning requirements. Compliance with NEPA and other environmental laws or executive orders (e.g., protection of parklands, wetlands, historic properties) must be completed before state or local funds are spent on implementation activities such as final design, construction, or acquisition for a project expected to be subsequently funded with FTA funds. Depending on which class the project is

included under in FTA's environmental regulations (23 CFR part 771), the grantee may not advance the project beyond planning and preliminary engineering before FTA has approved either a categorical exclusion (refer to 23 CFR part 771.117(d)), a finding of no significant impact, or a final environmental impact statement. The conformity requirements of the Clean Air Act (40 CFR part 93) also must be fully met before the project may be advanced with non-Federal funds.

Similarly, the requirement that a project be included in a locally adopted metropolitan transportation improvement program and federally approved statewide transportation improvement program must be followed before the project may be advanced with non-Federal funds. In addition, Federal procurement procedures, as well as the whole range of Federal requirements, must be followed for projects in which Federal funding will be sought in the future. Failure to follow any such requirements could make the project ineligible for Federal funding. In short, this pre-award authority requires a grantee to make certain that no Federal requirements are circumvented. If a grantee has questions or concerns regarding the environmental requirements, or any other Federal requirements that must be met before incurring costs, it should contact the appropriate regional office.

- (3) Request for LONP. Before a grant applicant may incur costs for a project not covered by automatic pre-award authority, it must first submit a written request for an LONP to the appropriate regional office. This written request must include a description of the project for which pre-award authority is desired and a justification for the request.

- c. Advance Capital Project Authority (formerly Advance Construction Authority). When a grantee has obligated all amounts apportioned to it under the Urbanized Area Formula Program and seeks to proceed with a transit project before Federal funds become available to it, the grantee may request advance capital project authority pursuant to 49 U.S.C. Section. 5307(g), formerly referred to as advance construction authority. Advance capital project authority permits a grant applicant to incur project and financing (e.g., bond interest) costs before FTA awards a grant for the project and reserve the right to be reimbursed after FTA has approved the project.

Advance capital project authority may be issued for Urbanized Area Formula Program grants (49 U.S.C. Section 5307(g)) and Capital Program grants (49 U.S.C. Section 5309(n)). The requirements for capital project authority under the two programs are similar, but differ slightly. The main features of advanced capital project authority under the Urbanized Area Formula Program are as follows:

- (1) A complete grant application must be on file with FTA, and all applicable Federal procedures and requirements must have been met, including the DOL certification

of labor protective arrangements. That is, FTA must have approved the project even though funding is not available.

- (2) Interest earned and payable in bonds issued by the recipient to the extent proceeds of the bonds are expended is eligible for reimbursement.
- (3) A Congressional authorization for the Urbanized Area Formula Program must be in effect for the fiscal year for which the advance capital project authority is sought by the grant applicant. That is to say, advance capital project authority cannot be awarded by FTA for a year for which there is no authorization for the Urbanized Area Formula Program.
- (4) No grant application can be approved under the Urbanized Area Formula Program that exceeds the grant applicant's reasonably anticipated share for the year at issue. The reasonably anticipated share is calculated by first calculating the applicant's expected apportionment, based on the authorization, and subtracting from that apportionment the maximum amount that could be made available to the grant applicant for projects for operating expenses.

Advance capital project authority is generally employed for major projects such as facility construction projects or large bus purchases that would require multiple-year funding. Advance capital project authority does not constitute a commitment of Federal funds until the project is converted to a regularly financed FTA project. The grant applicant should make contact with the appropriate Regional Office for specific instructions in applying for advance capital project authority.

- d. Grant Application Information. If the grant applicant is using pre-award authority, it should include in its grant application a statement to that effect and describe the purpose for which the pre-award authority is being used. Moreover, where appropriate, the project milestone schedule to be submitted with the grant application should provide dates and activities that occurred prior to FTA grant approval.





## CHAPTER IV

### APPORTIONMENTS

1. GENERAL. By statute, FTA must apportion funds appropriated for the Urbanized Area Formula Program for any fiscal year within 10 days following enactment of the annual Department of Transportation Appropriations Act or on October 1, whichever is later. These apportionments are published in the Federal Register along with the one percent minimum expenditure for transit enhancements for areas with populations of 200,000 and over.
2. FORMULA. Apportionments to urbanized areas under the Urbanized Area Formula Program are made on the basis of a statutory formula, which is summarized in Appendix B. An urbanized area is an area designated by the Bureau of the Census that has a population of at least 50,000. In general, FTA formula funds are apportioned on the basis of population and population density for urbanized areas with populations from 50,000 to 200,000; and population, population density, fixed-guideway route miles, bus and fixed-guideway vehicle revenue miles, and bus and fixed-guideway vehicle passenger miles traveled for urbanized areas with populations of 200,000 and over. Ferryboat services operated either by a grantee or under contract to a grantee are included, by statute, as fixed-guideway systems for purposes of calculation (49 U.S.C. Section 5336(b)(1)), as are electric trolley buses using overhead catenary for power distribution (49 U.S.C. Section 5302(a)(4)(B)).

Although the formula distinguishes between fixed-guideway systems and bus-transit systems, the amounts apportioned to an urbanized area on the basis of each type of service may be used for any eligible purpose at local discretion. An urbanized area with both bus and rail service, for instance, may elect to spend all of its Urbanized Area Formula Program funds on rail.

If a grantee of Urbanized Area Formula Program funds that operates fixed-guideway vehicles in an urbanized area with a population of 200,000 and over demonstrates to the satisfaction of the Secretary that energy or operating efficiencies would be achieved by actions that reduce revenue vehicle miles but provide the same frequency of revenue service to the same number of riders, then the grantee's apportionment will not be reduced as a result of such actions (49 U.S.C. Section 5336(b)(2)(D)).

3. DATA. Population and population density data are taken from the most recent decennial census. All other data used for formula apportionments are taken from the latest report year of validated data reported in the National Transit Database (49 U.S.C. Section 5335). Data which is submitted late or which cannot be validated may not be used in the formula. Agencies making data submissions are referred to FTA's Uniform System of Accounts and Annual Reporting Manual and the current National Transit Database Reporting Manual. Copies of these publications and general guidance on the National Transit Database reporting

requirements can be obtained from the FTA web site at FTA Home Page address <http://www.fta.gov> and from the following address: FTA Office of Program Management, Office of Program Guidance and Support, 400 7th Street, S.W. Washington, D.C. 20590; or by telephone at (202) 366-1656. The Office of Program Guidance and Support provides annual workshops on the National Transit Database for grantees' reporters to the database.

4. APPORTIONMENT TO AREAS UNDER 200,000 IN POPULATION. Urbanized Area Formula Program funds for use in urbanized areas under 200,000 in population are apportioned directly to the Governor of each state (49 U.S.C. Section 5336(f)). The announcement of the Federal fiscal year apportionments by FTA lists the amounts attributable to each of the urbanized areas within the state. The Governor may determine the allocation of funds among the urbanized areas under 200,000 in population, with one exception: funds attributed to an urbanized area under 200,000 in population that is located within the planning boundaries of a Transportation Management Area (TMA) must be obligated within the small urbanized area.
5. APPORTIONMENTS TO AREAS WITH POPULATIONS OF 200,000 AND OVER. Urbanized Area Formula Program funds for use in urbanized areas with populations of 200,000 and over are apportioned directly to the urbanized area. These funds may be applied for by the designated recipient(s) for each area. See chapter II for a discussion of designated recipients. Procedures for selecting the designated recipient are described in 49 U.S.C. Sections 5303-5306 and 49 U.S.C. Section 5307 (a)(2) and in 49 C.F.R. Part 613, "Statewide Planning; Metropolitan Planning."
6. TRANSFER OF APPORTIONMENTS.
  - a. From the State's Apportionment. The Governor may allocate amounts of the state's Urbanized Area Formula Program apportionment for urbanized areas under 200,000 in population among those same urbanized areas under 200,000 (49 U.S.C. 5336(g)), unless the urbanized area is a Transportation Management Area. Also, the Governor may transfer amounts of the state's Urbanized Area Formula Program apportionment to nonurbanized areas to supplement funds apportioned to the state under the Nonurbanized Area Formula Program (49 U.S.C. Section 5311). The Governor also may transfer amounts of the state's Urbanized Area Formula Program apportionment to an urbanized area with a population of 200,000 and over. The Governor may make such allocation only after consultation with responsible local officials and providers of publicly owned transit service in each area to which the funding was originally apportioned.

Funds remaining available for obligation 90 days prior to the expiration of their period of availability (year for which apportioned plus three) may be used by the Governor in any area within the state without prior consultation.
  - b. From the Nonurbanized Area Formula Program to Supplement the Urbanized Area Formula Program. The Governor may transfer funds from the state's apportionment under the Nonurbanized Area Formula Program to supplement funds apportioned to the

state under the Urbanized Area Formula Program for urbanized areas under 200,000 in population. Amounts so transferred may be used for any expenditures eligible under the Urbanized Area Formula Program (49 U.S.C. 5336(g)).

- c. From the Elderly and Persons with Disabilities Program to Support the Urbanized Area Formula Program. The Governor also may transfer funds under the Elderly and Persons with Disabilities Program (49 U.S.C. Section 5310, capital assistance for transportation for elderly persons and persons with disabilities): any amount of a state's apportionment under this program that remains available for obligation 90 days before the expiration of these funds' period of availability may be transferred to supplement Urbanized Area Formula Program funds apportioned to the state for areas under 200,000 in population.
- d. From Larger Urbanized Areas to the Governor of the State. A designated recipient in an urbanized area with a population of 200,000 and over may transfer its Urbanized Area Formula Program apportionment, or a portion thereof, to the Governor, who must in turn distribute it to urbanized areas of any size in the state pursuant to the requirements of 49 U.S.C. Section 5307 (see also 49 U.S.C. Section 5336(g)(4)). In such cases, the following process is applicable:
  - (1) The designated recipient, after consultation with all potential grantees in the urbanized area, writes to the FTA Regional Office of the designated recipient's intent to transfer its apportionment or a part thereof to the Governor. This letter must identify the amount of the apportionment to be transferred and the fiscal year for which it was appropriated, and confirm that all potential grantees have been consulted. All of the designated recipients in an urbanized area must concur in this letter;
  - (2) The Governor, either together with the designated recipient or separately, advises the FTA Regional Office in writing of the Governor's willingness to accept the apportionment; confirms that the apportionment will be used only in accordance with Urbanized Area Formula Program requirements; and acknowledges that transferred funds will be subject to the capital and operating assistance limitations applicable to the original apportionment of such amounts; and
  - (3) After receipt of these letters and verification that the apportionment is in fact available for transfer (i.e., the funds have been apportioned, have not been otherwise committed, etc.), FTA, in writing, notifies both the designated recipient and the Governor that the apportionment is available to the Governor for distribution in accordance with the Urbanized Area Formula Program upon receipt by FTA of an appropriate grant application.
- e. Notification to FTA. Prior FTA approval is not required, but notification to FTA of a transfer must be provided by the Governor for each transaction, so that FTA can accurately reflect this transfer decision in overall program budget levels and urbanized area apportionment records. Further, transfers must be shown in the grant application project budget.

7. TRANSFER OF FTA FUNDS FOR HIGHWAY PROJECTS. In TMA's (200,000 and over in population or as designated by the Governor and responsible local officials) as provided in 49 U.S.C. Section 5307(b)(2), Urbanized Area Formula Program funds that cannot be used for the payment of operating expenses, i.e., capital funds, can be made available for highway projects. There are three conditions governing the use of these capital funds for highway projects:
- a. Such use must be approved by the MPO after appropriate notice and opportunity for comment and appeal has been provided to affected transit providers.
  - b. FTA must determine that the funds are not needed for capital investments required by the Americans with Disabilities Act of 1990.
  - c. The local funds used for the non-Federal match of the highway project must be eligible to provide assistance for either highway or transit projects.

Procedures for the transfer are provided in Appendix E.

8. SUBAREA ALLOCATION. In those urbanized areas with more than one grantee or designated recipient, FTA expects local officials, operating through the MPO, and designated recipients to determine the allocations together. The subarea allocation should be determined fairly and rationally through a process agreeable to the designated recipients. Documentation showing how the allocation will be split should be provided to FTA. FTA may request a written agreement signed by a representative of each entity involved.

To assist in making such subarea allocations, any urbanized area may request from the FTA Regional Office serving that urbanized area the disaggregate data used in apportioning the total urbanized area's share of the entire Urbanized Area Formula Program resource.

CHAPTER V

REQUIREMENTS ASSOCIATED WITH URBANIZED AREA  
FORMULA PROGRAM GRANTS

1. INTRODUCTION. Federal transit law is codified in chapter 53 of Title 49, United States Code. The section of chapter 53 that authorizes and governs FTA administration of the Urbanized Area Formula Program is Section 5307 (49 U.S.C. Section 5307). Chapter V of this circular describes the requirements for every Urbanized Area Formula Program grant application. The chapter begins with reference to the National Transit Database Reporting System and Uniform System of Accounts, to which every grant applicant for Urbanized Area Formula Program funds must provide reports. The chapter then discusses requirements arising from Section 5307, which apply only to the grant applicant applying for an Urbanized Area Formula Program grant. The discussion broadens to requirements from other sections of Title 49 U.S.C. chapter 53 and continues with discussion of grant application requirements arising from other laws, regulations, and Executive Orders. In addition, the chapter describes FTA procedures that allow a grant applicant to certify once each year to compliance with the various requirements, and discusses the annual audits and triennial reviews of grantee performance that are required of FTA by 49 U.S.C. Section 5307.
2. NATIONAL TRANSIT DATABASE REPORTING SYSTEM. Section 5335(a) of Title 49, U.S.C. prohibits the Secretary of Transportation from making any grants under the Urbanized Area Formula Program unless the grant applicant and any person (entity, organization) to receive benefits directly from that grant are each subject to the National Transit Database Reporting System and Uniform System of Accounts. All recipients and direct beneficiaries under the Urbanized Area Formula Program must maintain and report financial and operating information on an annual basis, as prescribed in FTA regulations (49 C.F.R. Part 630) and the current National Transit Database Reporting Manual. Failure to do so will result in loss of eligibility for assistance under the Urbanized Area Formula Program. Annual workshops on reporting requirements are offered by FTA.
3. CERTIFICATION PROCEDURES. Before FTA may award a Federal grant, the grant applicant must provide to FTA all certifications and assurances required of the applicant--or in regard to the applicant's project--by Federal laws and regulations. The certifications and assurances are consolidated by FTA each Federal fiscal year into a single document that provides the text of the certifications and assurances to be used in connection with all Federal assistance programs administered by FTA during that fiscal year. The certifications and assurances are normally published on the same date that FTA announces the formula apportionments. By statute, FTA must announce the formula apportionments on October 1 or within 10 days of enactment of the DOT Appropriations Act, whichever is later.<sup>1</sup>

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<sup>1</sup> The Fiscal Year 1998 certifications and assurances appeared in the Federal Register on October 14, 1997 (62 Fed.Reg. 53512).

- a. Action Required. The authorized representative of the grant applicant and the grantee's attorney must make the requisite certifications by:
- (1) attesting to the certifications and assurances electronically with a personal identification number (PIN); (This is tantamount to submitting the signature page (Appendix A) at the end of the document that appears in the Federal Register, signed by the authorized representative and by the applicant's legal counsel.) and,
  - (2) selecting electronically each assurance or certification category that will apply to the applicant's grants for the fiscal year; (This is tantamount to selecting from a list provided in Appendix A of the document those individual certifications that will apply to the applicant's grants for the fiscal year.) or,
  - (3) selecting instead a "Select all" field that signifies the grant applicant will comply with all categories of certifications and assurances. (This is tantamount to marking an "x" in a line at the top of the first page in Appendix A.)

FTA requires a current attorney's affirmation of the grant applicant's legal authority to certify compliance with that fiscal year's FTA funding assistance. The attorney's affirmation from previous years is not acceptable.

- b. Timing. Each year at the beginning of the fiscal year, FTA will prepare the certifications required and publish the collection in the Federal Register, highlighting any changes or additions over the previous year. FTA expects to receive the certifications and assurances electronically anew from each grantee
- (1) within 90 days from the date of publication of the certifications and assurances; or
  - (2) with the first grant application of the fiscal year, whichever comes first.

The certifications and assurances the grant applicant attests to will remain valid for one year or until FTA publishes the next version.

- c. Representation of Certifications. For convenience of the reader, a fair representation of the text of FY 1998 certifications and assurances is provided in Appendix G of the circular. The specific text of a particular certification may change, and new certifications may be added as a result of TEA-21 or other Federal laws; but many of the FY 1999 certifications and assurances will remain substantially as set forth in Appendix G. Category I in Appendix G applies to every applicant for FTA financial assistance. Category XII applies only to applicants requesting assistance from the Urbanized Area Formula Program. Other categories apply if they are or will be pertinent to the project(s) for which the grant applicant will request assistance during the fiscal year.

If the grant applicant is not able to submit the certifications electronically, the applicant should obtain a copy of the Federal Register Notice containing the current fiscal year's certifications and use the form contained in that Federal Register to submit the actual certifications. The current "Signature Page" shown in the current Federal fiscal year's compilation in the Federal Register must be used.

4. FTA OVERSIGHT. The Urbanized Area Formula Program is a streamlined program that allows the delivery of Federal dollars for transit to be predictable and smooth. A grant applicant is permitted to certify to possessing the characteristics and taking the actions Congress has identified as necessary to be an eligible recipient of Federal dollars. Congress has then charged FTA with conducting audits itself or requiring the grantee to have independent audits conducted to determine that the recipient of Urbanized Area Formula Program funds has carried out its activities in accordance with the program's requirements and the certifications of the grantee.

In particular, in accordance with 49 U.S.C. Section 5307(i), FTA must perform at least once every three years a full review and evaluation of the performance of each grantee receiving Urbanized Area Formula Program funds in carrying out the grantee's program, with specific reference to compliance with statutory and administrative requirements and consistency of actual program activities with the proposed program of projects and the planning process (pursuant to 49 U.S.C. Sections 5303 through 5306). These "triennial reviews" of grantee performance allow FTA to determine if the grantee is complying with the certifications it has made. It should be noted that the Secretary of Transportation has authority to make adjustments in the annual grants and may reduce or withdraw assistance as a result of the review findings.

5. CERTIFICATIONS PARTICULAR TO THE URBANIZED AREA FORMULA PROGRAM. Section 5307 (d)(1) lists 16 elements to which a grant applicant applying for Urbanized Area Formula Program funds must certify. In the paragraphs below, the elements are identified and a brief discussion follows. The elements are collected in Appendix G in Category XII.

- a. Legal Capacity. To receive a grant under the Urbanized Area Formula Program, a grant applicant must certify that it has or will have the legal capacity to carry out the proposed program of projects.

The grant applicant must be eligible and authorized under state or local law to request, receive, and spend Urbanized Area Formula Program funds to administer FTA-funded projects. Officials acting on behalf of the applicant must have appropriate authority designated by state or local law or by the governing body of the grant applicant. FTA retains the discretion to require any grant applicant to submit a legal opinion and other supporting documentation.

- b. Financial Capacity. To receive a grant under the Urbanized Area Formula Program, a grant applicant must certify that it has or will have the financial capacity to carry out the proposed program of projects.

A recipient of FTA funds must be able to match and manage those funds, to cover cost overruns, to cover operating deficits through long-term stable and reliable sources of revenue, and to maintain and operate federally funded facilities and equipment. FTA Circular 7008.1, "FTA Financial Capacity Policy," refers to two aspects of financial capacity: One is the general financial condition of the public transportation operating

enterprise. This includes historical trends and current experience in financial factors affecting the ability of the transit agency to operate and maintain the transit system at present levels of service. The other aspect of financial capacity is financial capability, which addresses the sufficiency of the grant applicant's funding sources to meet future operating deficits and capital costs. Financial capability considers the nature of funds pledged to support operating deficits, capital programs, and forecasted changes in fare and non-fare revenues.

- c. Technical Capacity. A grant applicant must certify that it has the technical capacity to carry out the proposed program of projects.

Technical capacity involves the ability to carry out projects and manage Federal grants in accordance with the grant agreement and with all applicable laws and regulations, using sound management practices. Technical capacity is related to the type of projects for which the grantee applies. For example, if a grant applicant operates vans and applies for funds to purchase additional vans, one can presume the grant applicant has the technical capacity to carry out the project. If the same grant applicant should apply for funds to plan, design, and build a large facility, the grant applicant can expect to be questioned by FTA with regard to technical capacity. In the case of a major investment, program management plans are required, which serve to show technical capacity.

FTA's view of grantee responsibilities in carrying out a project can be seen in FTA Circular 5010.1C, "Grant Management Guidelines," Chapter I. With reference to "all applicable laws and regulations," several laws and administrative requirements apply in common to all Federal grant-in-aid programs, including the Urbanized Area Formula Program. Some of the more important, for example, are:

- (1) The National Environmental Policy Act (NEPA);
- (2) The Uniform Relocation Assistance and Real Property Act;
- (3) The Flood Disaster Protection Act of 1973, as amended;
- (4) The Americans with Disabilities Act of 1990; and
- (5) "The Common Grant Rule" (i.e., 49 C.F.R. Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments").

Procurement practice is also linked to technical capacity. For more information about the procurement aspect of technical capacity, the reader should see paragraph h below.

- d. Satisfactory Continuing Control. Section 5307(d)(1)(B) provides that the grantee must annually certify that it "has or will have satisfactory continuing control over the use of the equipment and facilities . . ." through operation or lease or otherwise.

An FTA grantee must maintain control over federally funded property, ensure that it is used in transit service, and dispose of it in accordance with Federal requirements. If the grantee leases federally funded property to another party, the lease must provide the grantee satisfactory continuing control over the use of that property. Control over



FTA-funded facilities and equipment is determined in two areas: real property (land) and facilities; and personal property (equipment and rolling stock, both revenue and non-revenue). FTA requirements are for adequate property control as shown, for example, through an inventory system; for proper use and disposition of property as shown, for example, by conforming with FTA procedures described in the grants management circular (FTA C 5010.1C) for disposing of property; and for safeguards against loss, theft, or damage.

- e. Maintenance. The grant applicant must annually certify that pursuant to 49 U.S.C. Section 5307(d)(1)(C), it will maintain (federally funded) facilities and equipment.

The grantee must keep equipment and facilities acquired with Federal assistance in good operating order. This includes maintenance of rolling stock (revenue and non-revenue), machinery and equipment, and facilities. Every grant recipient of Urbanized Area Formula Program funds must have in its files a maintenance plan. The maintenance plan should identify the goals and objectives of a maintenance program, which may include, for example, vehicle life, frequency of road calls, and maintenance costs compared to total operating costs. The maintenance program, therefore, should establish the means by which such goals and objectives will be obtained.

- f. Rates Charged Elderly and Persons with Disabilities During Non-peak Hours. In accordance with 49 U.S.C. Section 5307(d)(1)(D), the grant applicant must certify that the rates charged the elderly and persons with disabilities during nonpeak hours for fixed-route transportation using facilities and equipment financed with Federal assistance from FTA "will not exceed one-half of the rates generally applicable to other persons at peak hours, whether the operation . . . is by the applicant or by another entity under lease or otherwise."
- g. Rate Charged Person Presenting a Medicare Card. Also in accordance with 49 U.S.C. Section 5307(d)(1)(D), the grant applicant must certify that it will give the half-fare rate described in paragraph f above to any person presenting a Medicare card issued to that person pursuant to Title II or Title XVIII of the Social Security Act (42 U.S.C. 401 et seq., 1395 et seq.).
- h. Use of Competitive Procurements. Pursuant to 49 U.S.C. Section 5307(d)(1)(E), the grant applicant must certify that it will use competitive procurements and will not use procurements employing exclusionary or discriminatory specifications.

In paragraph c above, the link was noted between a grant applicant's certification that its procurement procedures follow Federal requirements and a positive finding by FTA concerning the grantee's technical capacity to properly administer and manage a grant. A grant applicant should be aware that each procurement financed with FTA assistance must conform to the requirements of FTA Circular 4220.1D, "Third Party Contracting Requirements." A third party contract refers to any purchase order or contract awarded by a grantee to a vendor or contractor using Federal financial assistance awarded by FTA. That circular's guidelines contain general procurement requirements of the DOT Common Rule (49 C.F.R. Part 18), which includes specific statutory procurement provisions

required by FTA's enabling legislation and other special concerns to FTA. These provisions include, but are not limited to, a prohibition against the use of FTA grant or loan funds to support exclusionary or discriminatory specifications (49 U.S.C. Section 5323(h)(2)) and special provisions for procuring rolling stock, and management, architectural and engineering services (49 U.S.C. Sections 5325(b) and 5326(c)).

It should be noted that both the Common Rule and FTA Circular 4220.1D prohibit state or local preference provisions in procurements, except in certain restricted circumstances.

- i. Compliance with Buy America Provisions. The grant applicant must certify that in carrying out a procurement authorized for the Urbanized Area Formula Program the applicant will comply with applicable Buy America laws (49 U.S.C. Section 5307(d)(1)(E)). (See Category XII, item A(5) in Appendix G.)
  - (1) Basic Requirement. In accordance with 49 U.S.C. Section 5323(j), and FTA Buy America regulations, 49 C.F.R. Part 661, specific Buy America requirements apply to each acquisition of iron, steel, or manufactured goods, including rolling stock. Thus, unless an acquisition qualifies for a waiver as discussed further in this section, Federal transit assistance authorized by 49 U.S.C. chapter 53 and 23 U.S.C. (Highways) may not be used to finance the acquisition of iron, steel, or manufactured goods that are not produced in the United States.
  - (2) General Buy America Requirements Contrasted with Special Requirements for Rolling Stock. The grant applicant should be aware that FTA's Buy America requirements for steel, iron, and manufactured goods other than rolling stock differ substantially from FTA's Buy America requirements for rolling stock. In particular, FTA assistance may not be used to finance the procurement of steel, iron, or manufactured goods other than rolling stock, unless the steel, iron, or those manufactured goods either qualify as a domestic product in accordance with 49 C.F.R. Section 661.5, or FTA has granted a waiver in accordance with the Buy America regulations.

In contrast, rolling stock qualifies as a domestic product when:

- (a) the cost of its domestic (United States) components exceeds 60 percent of the cost of all its components, and
- (b) final assembly takes place in the United States.

Rolling stock meeting the 60 percent domestic component cost and final assembly requirements of 49 U.S.C. Section 5323(j)(2)(C) has qualified for the specific rolling stock waiver authorized by 49 C.F.R. Section 661.11(z), and there is no need to apply to FTA for this waiver.

- (3) Waivers. The statute establishing FTA's Buy America requirements--49 U.S.C. Section 5323(j), formerly Section 165 of the Surface Transportation Assistance Act of 1982, as amended, 49 U.S.C. App. Section 1602 Note--permits FTA to issue waivers in the public interest, or when U.S. products are not available, and for price differentials of at least 25 percent between the U.S. and foreign product. The statute

also authorizes rolling stock to qualify as a domestic product when its domestic component and subcomponent costs exceed 60 percent of the total component and subcomponent costs, and final assembly takes place in the United States.

Absent a specific waiver for a specific product within FTA's Buy America regulations, a grant applicant must apply for and receive a waiver from FTA for each foreign acquisition of iron, steel, or manufactured good it intends to acquire. However, the grant applicant need not apply to FTA for a waiver to acquire rolling stock with domestic component and subcomponent costs exceeding 60 percent of the total component and subcomponent costs and final assembly taking place in the United States. Nor must an applicant apply to FTA for a waiver to acquire equipment listed in Appendix A to 49 C.F.R. Section 661.7.

- (4) Waiver for Small Purchases. FTA issued a general-interest waiver (60 Fed. Reg. 37930, July 24, 1995, to be codified at 49 C.F.R. Part 661), to exempt from its Buy America requirements all purchases made with FTA financial assistance, including capital, planning, and operating assistance, where the cost of the purchase is \$100,000 or less. The exemption is based on the total cost of the purchase and not on individual items being purchased. Thus, if, for example, a grantee purchases under a single purchase order 10 items costing \$15,000 each, so that the total purchase order costs \$150,000, the purchase is not exempt from the Buy America requirements.
- (5) Regional Offices Available to Assist. It is often helpful to review the preambles as well as the text of the Buy America regulations. FTA recognizes that its Buy America regulations (including the preambles) do not address each issue that may arise in the course of a specific acquisition. It is not unusual for an acquisition to involve specific circumstances requiring individual interpretations of the regulations. For these reasons, Buy America questions or issues should be routinely submitted to the appropriate Regional Office.
- (6) Responsibilities. A grantee's responsibilities are:
  - (a) to adhere to the Buy America clause in its grant contract with FTA;
  - (b) include in its bid specification for procurement within the scope of FTA's regulations an appropriate notice of the Buy America provision. Such specifications shall require, as a condition of responsiveness, that the bidder or offeror submit with the bid a completed Buy America certificate in accordance with Section 661.6, or 661.12 of the regulation, as appropriate; and
  - (c) whether or not a bidder or offeror certifies that it will comply with the applicable requirement, the bidder or offeror is bound by its original certification and is not permitted to change its original certification after bid opening. A bidder or offeror that certifies that it will comply with the applicable Buy America requirements is not eligible for a waiver of those requirements. However, under Section 3020(b) of TEA-21, 49 U.S.C. 3001, et seq., a bidder or an offeror is

allowed to correct after the bid opening an inadvertent error in a certification of noncompliance. The burden of establishing inadvertent error is on the bidder.

- j. Compliance with 49 U.S.C. Section 5307(c) Concerning Making Available to the Public the Proposed Program of Projects. This requirement is discussed below in paragraph 6, "Program of Projects and Public Participation Requirements."
- k. Certification that Local Funds Are Available for the Project. The grant applicant must certify that the local funds are or will be available to carry out the project, as provided in Section 5307(e), which specifies the maximum Federal share of various types of projects.

The reader is referred to Chapter I of the circular, in which local and Federal shares of a project are addressed.

- l. Concerning Improving Mobility, Fuel Consumption, and Air Pollution. The grant applicant must certify that it will comply with 49 U.S.C. Section 5301(a). That section states, "It is in the interest of the United States to encourage and promote the development of transportation systems that embrace various modes of transportation and efficiently maximize mobility of individuals and goods in and through urbanized areas and minimize transportation-related fuel consumption and air pollution." (Such certification is required by 49 U.S.C. 5307(d)(1)(H); see also Category XII, item A(8) in Appendix G.)
- m. Compliance with Planning Requirements. A grant applicant requesting Urbanized Area Formula Program assistance must certify that it will comply with the planning requirements of 49 U.S.C. Sections 5303 through 5306.

As noted earlier, a project in a grant application for which either operating or capital assistance is requested must appear in a Transportation Improvement Plan (TIP) approved by the Metropolitan Planning Organization (MPO) and in a statewide Transportation Improvement Plan (STIP) jointly approved by the Federal Highway Administration (FHWA) and FTA. Any planning project must appear in a Unified Planning Work Program (UPWP), and planning projects using Surface Transportation Program, Congestion Management and Air Quality, or National Highway Safety funds must be included in a TIP and STIP. All other planning projects may be included in the TIP and STIP for information purposes.

FTA and FHWA have issued joint planning regulations implementing Sections 5303 through 5306. They are "Planning Assistance and Standards," 23 C.F.R. Part 450 and 49 C.F.R. Part 613, specifically Subpart B "Statewide Transportation Planning," and Subpart C "Metropolitan Transportation Planning and Programming." A summary of the regulations as they affect an applicant for Urbanized Area Formula Program funds is provided in Appendix A.

- n. Compliance with National Policy Concerning Elderly Persons and Individuals with Disabilities. The grant applicant must certify that it will comply with the requirements of 49 U.S.C. Section 5301(d) concerning the rights of elderly persons and persons with disabilities.

In Section 5301(d) Congress stated the national policy that elderly persons and individuals with disabilities have the same right as other individuals to use transit service and facilities. Accordingly, recipients of FTA funds must make special efforts in planning and designing transit service and facilities to ensure that transit can be used by elderly persons and individuals with disabilities.

- o. Public Comment on Fare and Service Changes. The grant applicant must certify that it has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transit service.

The grantee is expected to have a written policy that describes the public comment process on increases in the basic fare structure and on major service reductions. The policy should provide an opportunity for a public hearing or public meeting for any fare increase or major service reduction and should describe how such meetings will be conducted and how the results of such meetings will be considered in the process of changing fares and service. A public meeting is not mandatory; however, an opportunity for a public meeting in order to solicit comment must be given.

- p. Expenditure on Transit Security Projects. The grant applicant must certify that it will expend for transit security projects for each fiscal year not less than one percent of the funds it receives under the Urbanized Area Formula Program for each fiscal year, or the grant applicant must certify that such expenditures for security projects are not necessary.

Projects that use operating assistance funds and projects that use capital assistance funds may be counted as eligible projects to be used toward the one percent that must be spent on security projects. Examples of transit security projects include (but are not limited to):

- (1) Increasing lighting within a transit system or adjacent to one at bus stops, subway stations, parking lots, and garages;
- (2) Camera surveillance of an area within or adjacent to the transit system;
- (3) Providing an emergency telephone line and radio communication links to contact law enforcement or security personnel in areas within or adjacent to the transit system;
- (4) Any other project intended to increase the security and safety of an existing or planned transit system;
- (5) Contracts for security training;
- (6) Security analysis studies;
- (7) Staff salaries for personnel exclusively involved with security; and
- (8) Contracts for security services.

Category XII.A(10) in Appendix G pertains to security. During triennial reviews, grantees will be asked to show the basis of the security-related certification.

- q. Expenditure on Transit Enhancements. For urbanized areas with populations 200,000 and over, TEA-21 establishes a minimum annual expenditure requirement of one percent

for transit projects and project elements that qualify as enhancements under the Urbanized Area Formula Program. The term "transit enhancement" includes projects or project elements that are designed to enhance mass transportation service or use and are physically or functionally related to transit facilities.

- (1) Eligible enhancements. Following are the transit projects and project elements that may be counted to meet the minimum enhancement expenditure requirement.
  - (a) historic preservation, rehabilitation, and operation of historic mass transportation buildings, structures, and facilities (including historic bus and railroad facilities);
  - (b) bus shelters;
  - (c) landscaping and other scenic beautification, including tables, benches, trash receptacles, and street lights;
  - (d) public art;
  - (e) pedestrian access and walkways;
  - (f) bicycle access, including bicycle storage facilities and installing equipment for transporting bicycles on mass transportation vehicles;
  - (g) transit connections to parks within the recipient's transit service area;
  - (h) signage; and
  - (i) enhanced access for persons with disabilities to mass transportation.
- (2) Requirements. One percent of the Urbanized Area Formula Program apportionment in each urbanized area with a population of 200,000 and over must be made available only for transit enhancements. When there are several grantees in an urbanized area, it is not required that each grantee spend one percent of its Urbanized Area Formula Program funds on transit enhancements. Rather, one percent of the urbanized area's apportionment must be expended on projects and project elements that qualify as enhancements. If these funds are not obligated for transit enhancements by three years following the fiscal year in which the funds are apportioned, the funds will lapse and no longer be available to the urbanized area, and will be reapportioned under the Urbanized Area Formula Program.

It will be the responsibility of the MPO to determine how the one percent will be allotted to transit projects. The one percent minimum requirement does not preclude more than one percent's being expended in an urbanized area for transit enhancements. Items that are only eligible as enhancements, however--in particular, operating costs for historic facilities--may only be assisted with the enhancement funds.
- (3) Project Budget. The project budget for each grant application that includes enhancement funds must include a scope code for transit enhancements and specific

budget activity line items for transit enhancements (see Chapter VII EXHIBIT 10 for FTA scope codes and line items) .

- (4) Enhancement Report. The recipient must submit a report to the appropriate FTA Regional Office listing the projects or elements of projects carried out with those funds during the previous fiscal year and the amount expended. The report must be submitted in the Federal fiscal year's final quarterly report, using activity line item codes from the approved project budget.
- (5) Bicycle Access. As noted in Chapter I, projects providing bicycle access to transit assisted with the FTA enhancement apportionment are assisted with a 95 percent Federal share
- (6) Enhanced Access for Persons with Disabilities. Enhancement projects or elements of projects designed to enhance access for persons with disabilities must go beyond the requirements attendant to the Americans with Disabilities Act.
- (7) Time of Costs Incurred. FTA reimbursement for costs related to the operating costs for historic facilities must be by means of a grant awarded after June 9, 1998, the date of enactment of TEA-21, and costs must have been incurred in a local fiscal year ending after June 9, 1998.

## 6. PROGRAM OF PROJECTS AND PUBLIC PARTICIPATION REQUIREMENTS.

- a. Source of Projects. The source from which projects are selected to be in an FTA grant application is that part of a metropolitan area's TIP (approved by the MPO, found to be consistent with the metropolitan area's long-range plan by FTA, and approved by the Governor) that is within an approved STIP. The first-year program of the approved TIP constitutes a list of "agreed to" projects for FTA grant application purposes. In this circular, the term "program of projects" will mean those projects in the first-year program of the approved TIP (within the approved STIP) which will have as their Federal funding source the Urbanized Area Formula Program.

Operating assistance projects come from the first year of the approved TIP. Capital projects may be selected from years one, two, or three of the TIP; however, if a project is selected from years two or three, it must be advanced to year one through the TIP project selection process described in 23 C.F.R. Part 450.222.

As noted earlier, planning projects must be selected from an approved Unified Planning Work Program.

Additional information about the planning process and its relation to the Urbanized Area Formula Program appears in Appendix A.

- b. Requirements. To receive a grant under the Urbanized Area Formula Program for a fiscal year at hand, a grant applicant must meet certain requirements concerning public participation in development of a program of projects, and must certify to complying with these requirements. The requirements are listed in 49 U.S.C. Section 5307(c)(1) through

(7) and are discussed in the paragraphs below. Certification language appears in Category XII, Item A(6) of Appendix G.

c. Availability of Information to Public. The grant applicant must:

- (1) Make available to the public information concerning the amount of funds available under the Urbanized Area Formula Program and the program of projects that the recipient proposes to undertake with such funds;
- (2) Develop a proposed program of projects for activities to be financed, in consultation with interested parties, including private transportation providers;
- (3) Publish the proposed program of projects in sufficient detail and in such a manner as to afford affected citizens, private transportation providers, and, as appropriate, local elected officials, an opportunity to examine the proposed program and to submit comments on it and on the performance of the recipient;
- (4) Provide an opportunity for a public hearing to obtain the views of citizens on the proposed program of projects;
- (5) Ensure that the proposed program of projects provides for the coordination of transit services assisted by the Urbanized Area Formula Program with transportation services assisted from other Federal sources;
- (6) Consider comments and views received, especially those of private transportation providers, in preparing the final program of projects; and
- (7) Make the final program of projects available to the public.

d. Ensuring Coordination of Transit Services. Title 49 U.S.C. Section 5307(c)(5) requires that the program of projects reflects coordination of transit services with those services assisted from other Federal sources. Moreover, TEA-21 further encourages coordination with transit providers. TEA-21 provides that "to the extent feasible, governmental agencies and nonprofit organizations that receive assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services:

- (1) "shall participate and coordinate with recipients of assistance" (under all FTA programs) "in the design and delivery of transportation services; and
- (2) "shall be included in the planning for those services." (TEA-21, Section 3020, amending Title 49 U.S.C. Section 5323 to add subsection (k)).

FTA requests an assurance by the grant applicant concerning its efforts to coordinate. Standard assurance language is provided in Category XII, item A(6)(e) in Appendix G. During Triennial Reviews, grantees will be expected to show evidence of having looked into the possibility of coordinating services as the program of projects was being developed.

Federal agencies other than FTA provide support for many transportation services. Most of these are human service programs originating in the Department of Health and Human Services (DHHS), although other Federal agencies such as the Department of Labor (jobs



programs) are involved to a lesser degree. While there has been much interaction between the Elderly and Persons with Disabilities Program and the Nonurbanized Area Formula Program and DHHS-funded programs, that has not always been the case for the Urbanized Area Formula Program. Coordination may occur at many levels, from simple information sharing to total consolidation of services.

- e. Consideration of Comments. In preparing the final program of projects to be submitted to FTA, the grant applicant must consider any such comments and views, and if deemed appropriate by the grant applicant, must modify the proposed program of projects and budget. The final program of projects and budget must be made available to the public.
- f. Satisfying the Requirement for Public Participation in Development of the Program of Projects. Just as Federal transit law requires the grant applicant to include the public in development of the program of projects, so do Federal transit law and joint FHWA/FTA planning regulations governing the metropolitan planning process require a locality to include the public and solicit comment when the locality develops its metropolitan long-range (20-year) plan and its (3-year) metropolitan transportation improvement program. Accordingly, FHWA and FTA have decided that when a grant applicant follows the procedures of the public involvement process outlined in the FHWA/FTA planning regulations, the grant applicant satisfies the public participation requirements associated with development of the program of projects that grant applicants for Urbanized Area Formula Program funds must meet. See 23 C.F.R. Part 450 and 49 C.F.R. Part 613 (specifically Subpart B, "Statewide Transportation Planning," and Subpart C, "Metropolitan Transportation Planning and Programming"). The public involvement process is described at 23 C.F.R. Section 450.316(b).

While a grant applicant may choose to maintain a separate approach for complying with the public participation requirements of 49 U.S.C. Section 5307(c)(1) through (c)(7) concerning the applicant's proposed Section 5307 grant program, the grant applicant is encouraged to integrate compliance with these requirements with the locally adopted public involvement process associated with the TIP. Grantees that choose to integrate the two should coordinate with the MPO and ensure that the public is aware that the TIP development process is being used to satisfy the public hearing requirements of Section 5307(c). The grant applicant must explicitly state that public notice of public involvement activities and time established for public review and comment on the TIP will satisfy the program-of-projects requirements of the Urbanized Area Formula Program. A project that requires an environmental assessment or an environmental impact statement will involve additional public involvement, as presented in joint FHWA/FTA environmental regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771.

- g. Substitute (Contingency) Projects. A grant application for Urbanized Area Formula Program assistance may include substitute projects. Substitute projects also must be drawn from years one, two, and three of the approved TIP. To be a substitute project, a project must be included in the grant application, although not the grant budget, and must meet the same requirements as any other project in the grant application (that is,

environmental, clean air, civil rights, labor protection, etc., requirements). While budget information about a substitute project must be provided in the grant application, these figures are not to be included in the total project cost. If a project within the grant application is postponed or deleted, the grantee may move the substitute project from "below the line" into the grant budget, with written notification and explanation to FTA. It will not be necessary to amend the grant; rather, a budget revision will be acceptable. If the project is drawn from years two or three of the TIP, it must be advanced to year one through the local project selection process before FTA may approve the budget revision. FTA must be provided with the project selection documentation.

- h. Budget Constraints, Additional Information. The total Federal share for the final program of projects may not exceed the amount apportioned to the urbanized area or the amount allocated to the grant applicant by the MPO from these amounts, plus Urbanized Area Formula Program carryover funds for previous years, if appropriate, and funds transferred from other urbanized areas, from the Nonurbanized Area Formula Program, or for flexible funding from the Federal Highway Administration. Apportioned funds transferred to another urbanized area or to the Nonurbanized Area Formula Program should be deducted from those available to the donating area.

7. ALPHABETICAL LISTING OF OTHER REQUIREMENTS. Grant application requirements that arise outside of 49 U.S.C. Section 5307 but which nevertheless apply to an applicant for Urbanized Area Formula Program funds are discussed in the remainder of this chapter. Some of the requirements must be certified to by the grant applicant. Others do not require certification. When a certification is required, the reader will be directed to that part of Appendix G in which standard language for the certification is provided.

The subjects are addressed in alphabetical order. Topics are as follows:

- Associated Capital Maintenance Items
- Buses
- Bus Facilities
- Clean Air Act
- Drug-Free Workplace
- Drug and Alcohol Testing
- Environmental Protection
- Fixed Guideway Rolling Stock
- Integrity - Debarment and Suspension
- Intergovernmental Review
- Labor Standards
- Lease vs. Buy Considerations
- Lobbying
- New Starts

New Technology Introduction  
Nondiscrimination - Civil Rights Requirements  
Private Enterprise Concerns  
Real Property Acquisition  
Relocation  
Seismic Design and Construction Standards  
State Safety Oversight

8. ASSOCIATED CAPITAL MAINTENANCE ITEMS. Associated capital maintenance items are defined in Federal transit law as ". . . any equipment, tires, tubes and materials, each of which costs no less than one-half of one percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment, tires, tubes, and materials are to be used" (49 U.S.C. Sections 5307(b)(1), (2), and (4)). Under the Urbanized Area Formula Program, the acquisition of such items is a capital expense for which the Federal share is 80 percent, subject to the following provisions:

Associated capital maintenance items relate to items for revenue rolling stock only and do not include facilities, facility equipment, or non-revenue producing vehicles. Rolling stock means buses, vans, cars, rail cars, trolley cars and buses, ferry boats, and vehicles used for guideways and inclined planes.

The eligibility of associated capital maintenance items for capital assistance applies only to acquisition of items funded under the Urbanized Area Formula Program. Items funded under the other capital assistance programs will continue to be acquired under procedures in use currently for acquisition of new rolling stock, although it is expected that most rolling stock will be purchased under Urbanized Area Formula Program grants.

The word "item" used herein refers to a specific unit which is customarily offered by a supplier, such as an engine, transmission, generator, axle assembly, or compressor. This definition also includes repair or rebuild kits.

In some instances, a grantee may have the personnel and facilities available to manufacture or reconstruct a replacement item in-house. Such activities are eligible for FTA capital assistance under the associated capital maintenance provisions provided that: manufacturing the item in-house, including material, burden labor, and overhead, is cost-effective when compared with purchasing the item from a commercial source; or the required part is unavailable commercially or obtaining it from outside requires an excessively long lead time that cannot be tolerated by the grantee. Otherwise the acquisition of such items should be by contract.

The cost of reconstructing or rebuilding of associated capital maintenance items is an eligible capital cost if the value of the item after reconstruction is no less than one-half of one percent of the current value of a comparable unit of rolling stock.

Under this provision, an eligible capital activity includes a grantee's rebuilding of any item of equipment, such as generators, starters, etc., for use on rolling stock provided that, after rebuild, the item meets the one-half of one percent threshold test.

The threshold minimum cost of each item eligible for acquisition is determined by the type of rolling stock for which the equipment and material is being procured (that is, 12-year heavy duty, 10-year life, 5-year life, etc). This definition is equally applicable to all rolling stock, either highway or rail operated.

For example, if a grantee desires to purchase associated capital maintenance items for a fleet of 40-foot, heavy-duty transit buses with an average fleet age of four years, the cost of each item requested can be no less than one-half of one percent of the straight line depreciated value of an average vehicle of the agency's 40-foot heavy-duty bus fleet, or comparable four-year-old bus.

Assuming that an average fleet bus or comparable eight-year-old bus costs \$210,000 when new, then its depreciated value is \$70,000 ( $4/12 \times \$210,000$ ), and the cost of each associated capital maintenance item must be equal to or exceed \$350 ( $.005 \times \$70,000$ ).

Repair, rebuild, or refurbishing kits that are readily available from suppliers are eligible for acquisition with FTA funding support under this provision if the cost of the complete kit meets the one-half of one percent test.

Acquisition of sets or groups of like items will be included under guidelines similar to those stipulated above for kits. Sets of brakes, seats, windows, or other like items may be procured providing the total cost of the set meets the one-half of one percent test.

Procurements of associated capital maintenance items may be initiated directly by a recipient of FTA funds through a sole source contract with the original supplier or manufacturer for the item to be replaced if the recipient certifies to FTA that: the manufacturer or supplier is the only source for the item, and the price of such item is no higher than the price of similar items.

As noted in Chapter III, Eligible Grant Activities, several activities that were once supported by FTA with operating assistance funds have become eligible as capital activities. In that regard, TEA-21 amended the definition of a capital project, for all FTA grant programs, to include the cost of "preventive maintenance" as an eligible capital cost. Thus, the Federal share for preventive maintenance is 80 percent of net project cost. FTA defines preventive maintenance as all maintenance. A grant applicant may find that the grant application can be simplified by applying for FTA assistance under the preventive maintenance category rather

than applying for capital assistance for associated capital maintenance items, vehicle overhaul, or vehicle rebuilding--all of which are eligible for capital assistance. The choice of how best to structure the grant application rests with the grant applicant. The grant applicant is cautioned not to count the same costs twice. Preventive maintenance is discussed in Chapter III, paragraph 4c.

9. BUSES.

a. Requirements Related to Local Bus Fleets. FTA has established several policies that are meant to ensure that buses purchased or leased with Federal funds are maintained and remain in transit use for a minimum normal service life and to ensure that the buses acquired are necessary for regularly scheduled transit revenue service (i.e., to meet peak service requirements with a reasonable allowance for spares).

(1) Service Life Policy. Service life of rolling stock begins on the date the vehicle is placed in revenue service and continues until it is removed from service. Minimum normal service lives for buses and vans are given in the paragraphs below.

- (a) Large, heavy-duty transit buses (approximately 35'-40', and articulated buses): at least 12 years of service or an accumulation of at least 500,000 miles.
- (b) Medium-size, heavy-duty transit buses (approximately 30'): 10 years or 350,000 miles.
- (c) Medium-size, medium-duty transit buses (approximately 30'): 7 years or 200,000 miles.
- (d) Medium-size, light-duty transit buses (approximately 25-35'): 5 years or 150,000 miles.
- (e) Other light-duty vehicles such as small buses and regular and specialized vans: 4 years or 100,000 miles.

It is recommended that grant applicants specify the expected service life category in requests for bids when acquiring new vehicles.

FTA calculates the value of vehicles prior to the end of their minimum normal service life on the basis of a formula using straight-line depreciation as described in paragraph (2)(b) below. Removal of an FTA-funded vehicle from revenue service before the end of its minimum normal service life, except for reasons of fire, collision, or natural disaster, leaves the grantee liable to FTA for the Federal share of the vehicle's remaining value. Consistent with this policy, the suggested vehicle service life standards stated above in years refer to time in normal service, not time spent stockpiled or otherwise unavailable for regular transit duty.

(2) Replacement Policies.

- (a) Replacement at End of Minimum Normal Service Life. Vehicles proposed to be replaced must have achieved at least the minimum normal service life. For purposes of bus replacement grant applications, the age of the bus to be replaced

is its years of service or mileage at the time the proposed new bus is introduced into service. A fleet roster must accompany a grant application for which funds are requested to replace vehicles. Two examples, regarding calculation of spare ratios and information concerning the fleet, appear in Appendix F to provide assistance in addressing replacement.

- (b) Early Disposition Policy. If a vehicle is replaced before it has achieved its minimum normal service life, the grantee has the option of returning to FTA an amount equal to the remaining Federal interest in the vehicle or applying the "like-kind exchange" policy (discussed below) and placing an amount equal to the remaining Federal interest in the vehicle into a newly purchased vehicle.

To determine the Federal interest in a federally funded vehicle during its minimum normal service life, a straight-line depreciation formula is used: for example, for a bus with a 12-year minimum normal service life, the bus's value decreases each year by 1/12 of its original purchase price. Similarly, the Federal interest in the bus decreases each year by 1/12 of the amount of the Federal grant that was awarded for its purchase.

- (c) Use of Like-Kind Exchange Policy. A vehicle may be traded-in or sold before the end of its minimum normal service life, if a grantee so chooses. Moreover, a grantee may elect to use the trade-in value or the sales proceeds from the vehicle to acquire a replacement vehicle of like kind. "Like-kind" means a bus for a bus with a similar service life and a rail vehicle for a rail vehicle. Under the like-kind exchange policy, proceeds from the vehicle sales are not returned to the FTA; instead, all proceeds must be invested in acquisition of the like-kind replacement vehicles. If sales proceeds are less than the amount of the Federal interest in the vehicle to be replaced, the grantee is responsible for providing the difference, along with the grantee's local share of the cost of the replacement vehicle. If sales proceeds are greater than the amount of the Federal interest, the investment of all the proceeds in acquisition of the like-kind replacement vehicle results in reduction of the gross project cost.

Grant applicants interested in buying a replacement vehicle before the end of the minimum normal service life of the vehicle to be replaced should refer to the FTA Notice, "Change in Policy on Sale and Replacement of Transit Vehicles," published in the Federal Register on August 28, 1992.<sup>2</sup> In Appendix F is a sample calculation concerning the like-kind replacement of a heavy-duty bus illustrating the selling of a bus at the bus's mid-life.

- (3) Rebuilding Policies. Buses to be rebuilt should be at the end of the minimum normal service life, as previously described, and in need of major structural and/or mechanical rebuilding. The age of the bus to be rebuilt is its years of service at the time the rebuilding begins. The eligibility of this major capital bus rebuild work is in addition to the eligibility of vehicle overhauls described in paragraph (4).

<sup>2</sup> 57 Fed. Reg., 39328-39329 (1992)

Depending upon the extent of rebuilding planned, it may be subject to Americans with Disabilities Act requirements. (See 49 C.F.R. Section 37.75 for remanufacture of non-rail vehicles.)

Rebuilding is also an eligible capital cost under the category of preventive maintenance. See the discussion of preventive maintenance in Chapter III, paragraph 4c.

- (4) **Vehicle Overhauls**. Rolling stock overhauls are an eligible capital expense. FTA assistance for vehicle overhaul is based on a percentage of annual vehicle maintenance costs. A grant applicant may apply for FTA capital assistance for vehicle overhauls in an amount up to 20 percent of its annual vehicle maintenance costs. This eligibility for capital assistance applies also to leasing and to contracted service. This eligibility is in addition to eligibility of rebuilding discussed in paragraph (3) above. Because the category "vehicle overhaul-20 percent" is also an eligible capital cost under the category of preventive maintenance, FTA intends to eliminate the category "vehicle overhaul-20 percent" beginning with FY 2000 funds.
- (5) **Spare Ratio Policies**. Spare ratios will be taken into account in the review of projects proposed to replace, rebuild, or add vehicles. The basis for determining a reasonable spare bus ratio takes local circumstances into account. The number of spare buses in the active fleet for grantees operating 50 or more revenue vehicles should not exceed 20 percent of the number of vehicles operated in maximum service.

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

Spare ratio is defined as the number of spare vehicles divided by the vehicles required for annual maximum service. Spare ratio is usually expressed as a percentage, e.g., 100 vehicles required and 20 spare vehicles is a 20 percent spare ratio.

For each grant application to acquire vehicles, a grant applicant must address the subjects of current spare ratio, the spare ratio anticipated at the time the new vehicles are introduced into service, disposition of vehicles to be replaced, and the applicant's conformance with the FTA spare ratio guideline. An applicant is required to notify FTA if the spare ratio computation on which the grant application is based is significantly altered prior to the grant award. A fleet status report must be submitted with each grant application to acquire rolling stock. "Fleet Status" and "Fleet Replacement" examples in Appendix F provide assistance in addressing spare ratio.

- (6) **Contingency Fleet**. Buses may be placed in an inactive contingency fleet--stockpiled-- in preparation for emergencies. No bus may be stockpiled before the

vehicle has reached the end of its minimum normal service life. Buses held in a contingency fleet must be properly stored, maintained, and documented in a contingency plan, updated as necessary, to support the continuation of a contingency fleet. A contingency plan is not an application requirement, although FTA may request information about the contingency fleet during application review. Contingency plans are subject to review during triennial reviews required for the Urbanized Area Formula Program. Any rolling stock not supported by a contingency plan will be considered part of the active fleet. Since vehicles in the contingency fleet are not part of the active fleet, they do not count in the calculation of spare ratio.

b. Requirements Related to Purchase of New Buses.

- (1) Fleet and Service Expansion. Grant applicants seeking assistance to undertake fleet and service expansion should describe new markets they intend to serve. Vehicle needs, fleet size, projected ridership, operating cost, revenues, and spare ratio should be addressed. The source of some of this information may be documentation developed during the metropolitan and statewide planning processes, in which case summary information and precise reference to the earlier material will be acceptable. Depending on the degree of expansion, the grant applicant may wish to make available a map indicating the fleet and service expansion locations. Representative fleet status and fleet replacement documents that may assist the grant applicant in addressing expansion appear in Appendix F.

In planning for service expansion, local criteria should be used in the identification of feasible opportunities for route extensions and new routes. These criteria are often based on demographic measures and are used to identify geographic locations that have transit potential. Care should be taken to explore all areas within the region. Areas that are currently served by transit should also be considered since they may have potential for different types of service. Candidate areas should be subjected to a more detailed analysis. Included in that analysis should be some locally established service design standards (for example, a minimum of 60-minute headways for all routes, or a 12-hour service day) which suggest the type and level of service that should be provided.

- (2) Buy America. The grant applicant intending to purchase new vehicles should review the earlier discussion in paragraph 5i, "Compliance with Buy America Provisions."
- (3) Warranties. A warranty that is an industry standard is an eligible capital cost as part of the acquisition of a bus or any other capital asset.
- (4) Bus Testing. Any new model bus, as well as models with significant changes, must be tested at the FTA-sponsored test facility in Altoona, Pennsylvania, before Federal funds may be expended to purchase them. This bus testing requirement at 49 U.S.C. Section 5323(c) applies to modified vans used in transit service as well as buses. The requirement applies also to new bus and van models using alternative fuels such as methanol, ethanol, and compressed natural gas.



FTA does not require a vehicle manufacturer to test its model before bidding. However, grant applicants acquiring any new bus model or any bus model with a major change in configuration or components must certify that the model will have been tested and the grant applicant will have received a copy of the test report prepared on the bus model before the final acceptance of the first vehicle. Category VI in Appendix G presents standard language for the certification.

FTA regulations, "Bus Testing," (49 C.F.R. Part 665) define a new model bus as one not used in mass transportation service in the United States before October 1, 1988, or one used in such service but which, after September 30, 1988, is being produced with a major change in configuration or components. A major change in configuration is defined as a change which may have a significant impact on vehicle handling and stability or structural integrity. A significant impact is an effect that could result in an unsafe vehicle characteristic, such as a dangerous operating condition or failure of a structural element. A major change in components is defined as a change in one or more of the vehicle's major components such as the engine, transmission, suspension, axle, or steering.

Partial testing is allowed for vehicle models that previously have been fully tested but are being produced with significant changes. Only those tests that affect specific components or parts of the vehicle and that may produce significantly different data from previous tests must be performed.

Vehicles are tested for maintainability, reliability, safety, performance, structural integrity, fuel economy, and noise. FTA and the manufacturer together pay the bus-testing fees.

Bus testing is not required for unmodified mass-produced vans. Unmodified mass-produced vans are vehicles manufactured as complete, fully assembled vehicles as provided by the original equipment manufacturer (OEM). This category includes vans with raised roofs or wheelchair lifts or ramps that are installed by the OEM or by someone other than the OEM, provided that the installation of these components is completed in strict conformance with the OEM modification guidelines.

Reports on new model buses or buses with significant changes can be obtained from the Altoona Bus Testing Center, 6th Avenue and 45th Street, Altoona, Pennsylvania 16602. The telephone number is (814) 949-7944.

- (5) Pre-Award and Post-Delivery Review of Buses. FTA requires that grantees purchasing revenue passenger rolling stock undertake reviews of the rolling stock before award of the bid, during manufacture, and following vehicle delivery. Grant applicants seeking to acquire rolling stock must certify that they will comply with pre-award and post-delivery review requirements. The certification language appears as Category V in Appendix G.

The requirement to undertake the pre-award and post-delivery reviews arises from 49 U.S.C. Section 5323(m) and is specified in FTA regulations 49 C.F.R. Part 663. The reviews are intended to improve compliance with Buy America requirements,

the grantee's bid specifications, and Government motor vehicle safety requirements. FTA has tried to carry out the intent of the law in a way that builds on current practices by many grantees and that improves the monitoring of compliance in the least burdensome manner. Reviews may be conducted by the grantee's staff or by a contractor for the grantee. The regulations require a resident inspector who is not an agent or an employee of the manufacturer to review specification compliance for the grantee at the manufacturing site, unless the procurement is for 10 or fewer buses or for an unlimited number of unmodified vans. The grantee must keep on file and make available to FTA upon request written reports resulting from the reviews.

When a state undertakes a consolidated state procurement on behalf of several subrecipients of FTA funds, the requirement for a resident inspector at the manufacturing site depends upon the number of buses in a subrecipient's order. That is, for example, although a state may order 30 vehicles, if no subrecipient expects to receive more than 10 of the vehicles, the state is not required to place an inspector on site. If more than 10 vehicles are ordered for a subrecipient, an on-site inspector is required, and may be provided by either the state or the subrecipient. In addition, if the on-site inspector is used on one subrecipient's order, then this meets the on-site inspection requirement for the state procurement even though there are other subrecipient orders of more than 10 vehicles.

In carrying out the reviews, it may be useful to obtain a copy of the manual, "Pre-award and Post-Delivery Reviews for Bus Vehicles," from the FTA Regional Offices (listed in Chapter VIII). Also, for buses that have been tested at the Altoona Bus Testing Center, it may be useful to obtain a copy of the test report. That address is provided in the discussion on bus testing above.

c. Requirements Related to Buses in Service.

- (1) Commercial Driver's License. All drivers of vehicles designed to transport more than 15 people (including the driver) must have a commercial driver's license. Mechanics who drive the vehicles also must have a commercial driver's license. The requirement derives from FHWA regulations, "Commercial Driver's License Standards; Requirements and Penalties," putting into effect various commercial motor vehicle safety acts.<sup>3</sup>
- (2) Charter Bus Operations. Charter service provided by federally assisted transit operators is limited by 49 U.S.C. Section 5323(d). These limitations are specified in FTA regulations, "Charter Service," 49 C.F.R. Part 604. Each grant applicant is required to enter into an agreement with FTA that the grant applicant will not engage in charter service unless permitted by FTA charter service regulations. That agreement is included in FTA's annual certifications and assurances. Category VII in Appendix G provides the language of the charter bus agreement.

FTA's charter service regulations prohibit FTA recipients from providing any charter service using FTA-funded equipment or facilities if there is at least one private

<sup>3</sup> 49 C.F.R. Part 383, sections 383.3, 383.5, and 383.23

charter operator willing and able to provide the charter service that the FTA recipient proposes to provide. The charter service regulations apply to bus or van service provided by direct recipients, subrecipients, or third party contractors that provide bus or van service financed with FTA funds. Before a transit operator may provide charter service using bus or van equipment or facilities financed by FTA, the operator must publish a notice at least annually and determine whether there are any private operators that do not receive FTA assistance willing and able to provide the service. A state either may conduct this process for itself and its subrecipients or may delegate these public notice responsibilities to its subrecipients, as long as adequate public notice is given. In addition, a state or a direct recipient of FTA funds that intends to make FTA funds available to another transit operator must obtain and retain in its records a certification of compliance with the charter service regulations from that operator.

The charter service regulations provide eight exceptions to the general prohibition on providing charter service. As an example of exceptions, one exception permits FTA recipients to petition FTA to provide charter service directly for "special events" when the private operators do not have the capacity to provide all necessary service. Special events are events of an extraordinary and singular nature. The charter service regulations specify the process for requesting an exception. If granted, an exception is effective for no more than 12 months and sometimes may be restricted to the particular trip.

In certain circumstances transit service may appear to be charter service. For example, service provided under contract to a social service agency will generally be transit service, not charter service, if the FTA recipient controls the service, the service is open-door, and the FTA recipient is able to secure service on the vehicle for its passengers in addition to passengers who are clients of the social service agency. Guidance on distinguishing prohibited charter service from permissible service may be found in the preamble to the original charter service regulation (52 Fed. Reg. 11916, April 13, 1987); the FTA notice setting forth charter service questions and answers (52 Fed. Reg. 42248, November 3, 1987); and the preamble to the amendment to the charter service regulations (53 Fed. Reg. 53348, December 30, 1988). The latest guidance supersedes earlier conflicting guidance.

- (3) School Bus Operations. School bus service that may be provided by a federally funded transit operator is limited by 49 U.S.C. Section 5323(f). These limitations, as well as four exemptions to these limitations, are specified in FTA regulations, "School Bus Operations" (49 C.F.R. Part 605).

Each grant applicant seeking assistance pursuant to 49 U.S.C. chapter 53 is required to enter into an agreement with FTA that the grant applicant will not engage in school bus operations exclusively for the transportation of students and school personnel, in competition with private school bus operators, in accordance with Federal regulations. That agreement is included in FTA's annual certifications and

assurances. Category VIII in Appendix G provides language for the school bus agreement.

The school bus prohibition does not apply to a category of service FTA has designated "tripper service." Under FTA school bus regulations, tripper service means regularly scheduled transit service that is open to the public and that is designed or modified to accommodate the needs of school students and personnel, using various fare collection and subsidy systems. Buses used in tripper service must be clearly marked as open to the public and may stop only at regular service stops. All routes of the tripper buses must be within the operator's regular route service as shown in the operator's published route schedules.

## 10. BUS FACILITIES.

a. General Philosophy. FTA assists in building two categories of bus facilities:

- (1) facilities that support transit operations, such as maintenance garages and administrative buildings, and
- (2) facilities that provide passenger amenities and extend into the urban environment, such as bus terminals, stations, shelters, and park-and-ride lots.

FTA supports projects that are transit-related; an applicant will need to justify costs that are only indirectly related to transit. FTA participates in those portions of a project most physically and functionally connected to transit. Generally speaking, FTA does not participate in costs outside the "transit footprint" of a development project. FTA does participate in joint development projects as discussed in Chapter III, paragraph 4l. TEA-21 provides that joint development projects are eligible capital costs for all of the FTA grant programs. A grant applicant interested in applying Urbanized Area Formula Program funds to a joint development project should refer to FTA Circular 9300.1A, "FTA Capital Program: Grant Application Instructions," Appendix B, for amplification concerning joint development projects.

With regard to intermodal facilities, FTA will participate on a pro rata basis, based on the public transit use or portion of the project. FTA assistance for parking is generally limited to parking for transit passengers or ride-sharing. FTA funds may not be used to support parking for shoppers or sports events unrelated to transit usage. To ensure that Federal funds appropriated for transit purposes are used as Congress intended, FTA may require a grantee to reserve FTA-assisted parking areas for transit users. Incidental use of parking areas, however, may be acceptable. An example of acceptable incidental use would be weekend use by shoppers of a parking area normally restricted for transit users during the week.

b. Facility Size. FTA's general policy is to provide assistance for facilities that are adequate for the grant applicant's present needs and that will meet in a realistic way needs of the future. Thus, for a transit agency that at the present time operates 20 vehicles, a request for a bus maintenance garage that will accommodate 20 vehicles and have space for a 10 to 25 percent growth would be considered an acceptable grant request. For the same

transit agency, a grant request for a garage for 40 vehicles would not be acceptable, unless the transit agency was absolutely committed to expanding its fleet to 40 vehicles. However, the purchase of enough land for the future expansion of the fleet and the garage may be justifiable.

- c. Project Staging. When applying for a grant to build a facility, a grant applicant must be able to fully describe the project and estimate the cost of the facility. Often the best method for proceeding is first to request funds for facility design and engineering and, where allowable under FTA's environmental requirements, for acquisition of real estate, and later to apply for a grant amendment for construction funds when the cost of construction can be accurately estimated.
  - d. Planning Justifications. There must be a planning basis for every project or for every group of projects. Planning studies at varying levels of detail should be undertaken in support of projects to acquire, install, or construct major transit facilities. In the grant application, a grant applicant may choose to cite and summarize pertinent parts of documents in which results of project studies were reported (for example, transportation plans, unified planning work programs, and management systems). FTA may request copies of studies or summaries of study results upon reviewing a grant application.
11. CLEAN AIR ACT. Section 176(c) of the Clean Air Act, as amended, requires that-- in areas that are designated "nonattainment" or "maintenance" areas-- metropolitan transportation plans, TIPs, and projects conform to State Implementation Plans for air quality. The conformity assessment of the plan and TIP is conducted by the MPO during comprehensive regional planning.

In order to conform, a project must come from a conforming plan and TIP. In addition, during the environmental review of a proposed project, a conformity assessment may also be required for the individual project. The project-level conformity determination must be made according to the requirements of 40 C.F.R. Part 93. Although a number of transit projects funded under the Urbanized Area Formula Program are exempted by regulation from the conformity requirements (see 40 C.F.R. 93.126 and 93.127), some projects will require site-specific air quality analysis as a basis for the conformity finding. Moreover, certain projects that appear to fit the description in the list of exempted projects may involve potentially adverse air quality effects.

Applicants are advised to consult early with the FTA Regional Office to determine whether the project is properly exempted and if there is a need for air quality analysis. This decision is sometimes reached through consultation with the EPA Regional Office and state and local air agencies. If the project is not exempt, it cannot be advanced until the project-level conformity finding is made by FTA.

12. DRUG-FREE WORKPLACE. Each grantee is required to maintain a drug-free workplace for all employees and to have an anti-drug policy and awareness program. The grant applicant must certify to the FTA that it will provide a drug-free workplace and comply with

all requirements of the Drug-Free Workplace Act of 1988 (49 U.S.C. Section 701 et seq. and U.S. DOT's implementing regulations (49 C.F.R. Part 29 Subpart F).

The grantee is required to provide a written Drug-Free Workplace policy statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and stating specific actions that will be taken for violations.

The ongoing drug-free awareness program must inform employees about the dangers of drug abuse; about any available drug counseling, rehabilitation, and employee assistance programs; about penalties that may be imposed; and that employees are to be aware that the recipient operates a drug-free workplace.

An employee of an FTA grantee is required to report in writing any conviction for a violation of a criminal drug statute occurring in the workplace, and the grantee/employer is required to provide written notice to FTA within 10 days of having received the notice. Within 30 days of receiving the notice of a conviction, the grantee/employer must have taken appropriate action against the employee or have required participation in a drug abuse assistance or rehabilitation program.

Category I, Item D in Appendix G provides standard certification language pertaining to the grant applicant's drug-free workplace requirements.

13. DRUG AND ALCOHOL TESTING. In the interest of safety of transit operations, a recipient of Urbanized Area Formula Program funding is required by 49 U.S.C. Section 5331 to establish programs designed to help prevent accidents and injuries resulting from misuse of alcohol or the use of prohibited drugs by employees who perform safety-sensitive functions and to certify annually that it is in compliance with two FTA regulations concerning prohibited drug use and alcohol misuse. States must annually certify on behalf of their subrecipients. Compliance with the regulations is a condition of FTA funding. Where applicable as discussed below, recipients of FTA funding are required to certify compliance with Federal Railroad Administration (FRA) regulations and with Federal Highway Administration (FHWA) regulations concerning drugs and alcohol programs.

To assure compliance with the drug and alcohol testing requirements, FTA has published two regulations, "Prevention of Prohibited Drug Use in Transit Operations" (49 C.F.R. Part 653) and "Prevention of Alcohol Misuse in Transit Operations" (49 C.F.R. Part 654). The regulations apply to recipients of funds under the Urbanized Area Formula Program, as well as to recipients under the FTA Capital Program (49 U.S.C. Section 5309), the Nonurbanized Area Formula Program (49 U.S.C. Section 5311), and the interstate program (Section 103(e)(4) of Title 23). Both regulations require that FTA recipients follow the drug and alcohol testing procedures found in the DOT regulation on drug and alcohol testing procedures (49 C.F.R. Part 40).

The regulations apply to "employers," and the term employer is defined as "a recipient [of FTA funding] or other entity that provides mass transportation service or which performs a safety-sensitive function for such recipient or other entity." The term includes subrecipients, operators, and contractors. The direct recipient of FTA funding, however, remains responsible to FTA both for carrying out the regulations and for ensuring that any person or organization performing a safety-sensitive function on its behalf is in compliance with the FTA regulations.

Standard language for certification of compliance with the regulations appears in Category X and Category XIV, item M in Appendix G.

The FTA regulations do not apply to a recipient that operates a commuter railroad. A commuter railroad operator must comply with FRA regulations (49 C.F.R. Part 219) with regard to its hours of service employees. An FTA recipient that operates a commuter railroad must comply with regulations of the FHWA for its employees who hold commercial drivers licenses (49 C.F.R. Part 382). A recipient that operates a ferry service must comply with FTA's rules and those of the Coast Guard (33 C.F.R. Part 95 and 46 C.F.R. Parts 4,5, and 16).

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

Both rules require each employer to establish and implement a substance abuse prevention program consisting primarily of a testing program but with elements requiring training, educating, and evaluating safety-sensitive employees. Both rules require the development of a detailed policy statement that must be distributed to all safety-sensitive employees and employee organizations. In addition, the alcohol rule establishes alcohol concentration levels, and employers are directed to take specific action on the basis of the level of alcohol concentration.

Technical assistance materials and training information to help grantees implement the rules are available through the FTA Office of Safety and Security, FTA Headquarters, 400 7th Street, S.W., Washington, D.C. 20590.

14. ENVIRONMENTAL PROTECTION. Projects proposed for funding under the Urbanized Area Formula Program must comply with FTA's environmental review procedures implementing the National Environmental Policy Act (NEPA). Long-standing DOT policy specifies that compliance with all other applicable environmental protection requirements be integrated with the NEPA compliance process to the fullest extent possible (e.g., protection of wetlands, historic and archeological sites, public parklands, prevention of air pollution, etc.).

Under FTA's environmental review procedures (23 C.F.R. 771), projects are classified according to the significance of their probable environmental impacts. Environmental impact statements (EIS) are required for major fixed-guideway projects, which usually involve discretionary funding under the FTA Capital Program (49 U.S.C. Section 5309). An EIS normally involves the development of two or three major documents describing the decision process that led to a preferred transit alternative. The EIS process is closed out by FTA's signing of a record of decision (ROD). Most projects funded under the Urbanized Area Formula Program are classified as "categorical exclusions" and do not require preparation of an environmental document. Transit projects that are normally categorically excluded are listed in 23 C.F.R. 771.117. Depending on the particular characteristics of these projects and their location, some will require preparation of an Environmental Assessment (EA). The EA is used to assess the magnitude of the project's impacts and to evaluate environmentally preferable alternatives. The EA is normally prepared by the applicant, but this process is only concluded with a Finding of No Significant Impact (FONSI) by FTA, which would require a written commitment by the applicant to implement any mitigation measures described in the EA upon which FTA's finding is conditioned. Sometimes a narrowly focused environmental study is required to support a categorical exclusion when there is uncertainty about the significance of a limited number of environmental concerns (for example, traffic, noise and vibration, and air quality impacts).

Often, projects that are categorically excluded under NEPA involve compliance with other environmental requirements. It is essential that applicants consult with the FTA Regional Office at the earliest possible time prior to submitting the grant application, to determine whether a categorical exclusion designation is appropriate, what types of studies are needed, and which other Federal and state agencies must be brought into the environmental review process. At a minimum, the FTA Regional Office must have a complete project description and a description of the area immediately surrounding the project site in order to advise the grant applicant concerning specific environmental review requirements.

#### 15. FIXED GUIDEWAY ROLLING STOCK.

- a. Service Life Policy. In the case of rail vehicles acquired with FTA assistance, FTA has established a minimum normal service life of 25 years. Service life of rolling stock begins on the date the vehicle is placed in revenue service and continues until it is removed from service. The service life in years refers to total time in normal transit service, not time spent stockpiled or otherwise unavailable for regular transit use. A grantee that regularly measures lifespan by hours of operations, or by any other measure, may develop an appropriate methodology for converting its system to years of service. The reasonableness of such methodologies will be subject to examination, particularly if the grantee proposes to retire a vehicle before FTA's service life requirement has expired.

When a grantee removes a vehicle financed by FTA from service before expiration of its minimum normal service life--except for reasons of fire, collision, or natural disaster-- the grantee is legally obligated to FTA for an amount equal to the Federal share of the vehicle's remaining value, as explained further below. The value of a vehicle prior to the



end of its minimum normal service life is calculated on the basis of straight-line depreciation.

b. Replacement Policies.

- (1) Replacement at End of Minimum Normal Service Life. Before a grantee may replace an old rail vehicle with a new rail vehicle, the old vehicle must have reached or exceeded its 25-year minimum normal service life. For purposes of a rail vehicle replacement project, the age of the vehicle to be replaced is its age at the time the new vehicle is introduced into service. FTA's 25-year service life requirement is a minimum standard.
- (2) Early Disposition Policy. If a vehicle is replaced before the end of its minimum normal service life, the grant applicant has the option of returning to FTA an amount equal to the remaining Federal interest in the vehicle or using FTA's "like kind exchange" policy (discussed earlier in this chapter) and putting an amount equal to the remaining Federal interest in the vehicle into a newly purchased vehicle.

To determine the Federal interest remaining in a federally financed rail vehicle, one must first calculate the total value remaining in the vehicle using the straight-line depreciation method. Based on straight-line depreciation, the value of a rail vehicle with a 25-year minimum normal service life decreases by 1/25 of the purchase price for each year the vehicle has been in transit service. Thus, a rail vehicle in service for 20 years has a total remaining value of 5/25 or 1/5 of the original purchase price. Having calculated the total remaining value, one then multiplies that figure by the percentage of Federal assistance that was provided to purchase the vehicle. The product of this multiplication represents the Federal interest remaining in the vehicle.

- (3) Use of Like-Kind Exchange Policy. A vehicle may be traded-in or sold before the end of its minimum normal service life, if a grantee so chooses. Moreover, a grantee may elect to use the trade-in value or the sales proceeds from the vehicle to acquire a replacement vehicle of like kind. "Like-kind" means a bus for a bus with a similar service life and a rail vehicle for a rail vehicle. Under the like-kind exchange policy, proceeds from vehicle sales are not returned to the FTA; instead, all proceeds must be invested in acquisition of the like-kind replacement vehicles. If sales proceeds are less than the amount of the Federal interest in the vehicle to be replaced, the grantee is responsible for providing the difference, along with the grantee's local share of the cost of the replacement vehicle. If sales proceeds are equal to or greater than the amount of the Federal interest, all the proceeds also must be used to purchase the like-kind replacement vehicle, and the reinvestment amounts to a lowering of the gross project cost. Grant applicants interested in buying a replacement vehicle before the end of the minimum normal service life of the vehicle to be replaced should refer to the FTA Federal Register Notice, "Change in Policy on Sale and Replacement of Transit Vehicles," 57 Fed. Reg., 39328, August 28, 1992. A sample calculation for the like-kind replacement of a vehicle before the end of its minimum normal service life appears as "Like-Kind" in Appendix F.

- (4) Rebuilding. Any rail vehicle that will be rebuilt must have an accumulated service life of at least 12 years (mid-life rebuild) or must have reached the end of its minimum normal service life (end-of-life rebuild). The eligibility of this major capital rail rebuild work is in addition to the eligibility for vehicle overhauls (paragraph 15c below). The rebuilding is also eligible as preventive maintenance. See Chapter III for discussion of preventive maintenance.
- (5) Spare Ratio Policy. Because rail transit operations tend to be highly individualized, FTA has not established a specific number to serve as an acceptable spare ratio for rail transit operations. Nevertheless, rail operators should be aware that the grant applicant's rail vehicle spare ratio and the rationale underlying that spare ratio will be examined as part of the grant application review whenever FTA assistance is requested to purchase rail vehicles, and during the triennial review. A fleet status report must be submitted with any grant application for assistance to acquire rolling stock. As in the calculation of spare ratio for bus fleets (see paragraph 9a(5)), scheduled standby fixed guideway vehicles are permitted to be included as "vehicles operated in maximum service."

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

- 1 An operator of a rail system must have in its file available upon request by FTA a fleet management plan that addresses operating policies (level of service requirements, train failure definitions and actions); peak vehicle requirements (service period and make-up, e.g., standby trains); maintenance and overhaul program (scheduled, unscheduled, and overhaul); system and service expansions; rail car procurements and related schedules; and spare ratio justification.
- 2 Spare ratio justification should consider: average number of cars out of service for scheduled maintenance, unscheduled maintenance and overhaul program; allowance for ridership variation (historical data); ridership changes that affect car needs caused by expansion of system or services; contingency for destroyed cars; and car procurements for replacements and system expansions.
- 3 Cars delivered for future expansion and cars that have been replaced, but are in the process of being disposed of, should be identified and separated from other spares because they unfairly inflate the spare ratio.
- 4 Peak Vehicle Requirement includes "standby" trains that are scheduled, ready for service, and have a designated crew.
- 5 Factors that may influence spare ratio are: equipment make-up (locomotive-hauled trains; married pair units or single cars; equipment design, reliability and age); environmental conditions (weather, above-ground or underground operation, loading and track layout); operational policies (standby trains, load factors, headways); maintenance policies (conditions for removing cars from service, maintenance during nights and weekends, and labor agreement conditions; and maintenance facilities and staff capabilities.

6 "Fleet Status" and "Fleet Replacement" examples in Appendix F provide assistance for addressing spare ratio and providing information on the fleet.

- c. Vehicle Overhaul. Rolling stock overhauls are an eligible capital expense; this is considered a major re-work item. Another assistance category for overhauls--available since 1996--has been that referred to as "vehicle overhaul - 20 percent." In that option, a grant applicant has been able to apply for FTA capital assistance in an amount up to 20 percent of its annual vehicle maintenance costs for vehicle overhauls, and FTA has participated in the total project cost at the 80/20 Federal/local share ratio. Because preventive maintenance, defined as all maintenance, has been authorized as a capital expense by TEA-21, FTA intends to eliminate as redundant the category "vehicle overhaul - 20 percent," concurrent with the appropriation of Fiscal Year 2000 funds. The eligibility for the major re-work categories, vehicle overhauls and rebuilding, will continue. Rebuilding was described in paragraph 15b(4).

16. INTEGRITY - DEBARMENT AND SUSPENSION. "In order to protect the public interest, it is the policy of the Federal Government to conduct business only with responsible persons" (49 C.F.R. 29.115(a)). Debarment and suspension are methods used to implement the policy. U.S. DOT has issued implementing regulations at 49 C.F.R. Part 29.

An applicant for FTA assistance is required to certify that it, through its "principals," is not excluded from federally assisted transactions and to ensure that none of its subrecipients, third-party contractors, or subcontractors is debarred, suspended, ineligible, or voluntarily excluded from participation in federally assisted transactions. Please see Appendix G, Category I, Item C for standard certification language.

Disclosure to FTA is required if at any time a grantee or other "covered" entity learns the certification was erroneous when submitted or if circumstances have changed (e.g., new personnel, indictment, conviction).

17. INTERGOVERNMENTAL REVIEW. Executive Order 12372 and DOT regulations, "Intergovernmental Review of Department of Transportation Programs and Activities," (49 C.F.R. Part 17) require that a grant applicant applying for FTA funds comply with a state's intergovernmental review process. The requirement is to ensure that the appropriate state authorities are informed about and provided an opportunity to comment on projects for which Federal assistance is being provided within the state. Many states have their own review procedures, which describe what grant applicants need to do to satisfy intergovernmental review requirements. If there is no intergovernmental review process in the grant applicant's state, then programming of a project in the TIP and STIP, or UPWP, as appropriate, will be considered by FTA as meeting the need for intergovernmental review. If there is a state process, FTA requires that the grant applicant--upon approval of the TIP by the MPO--alert the single point of contact for the state's intergovernmental review process that the MPO has approved the TIP and that the TIP has been submitted to the Governor for approval and subsequent inclusion in the STIP. The applicant must inform the single point of contact of the name of the office to which the TIP is being submitted and that office's mailing address.

The applicant may wish to transmit to the single point of contact, or request the MPO to transmit, pertinent documents on transit projects from the approved TIP. Timely alerting of the single point of contact will allow that entity to review and comment on the projects in the TIP during the STIP development process, if the entity so chooses. Category I, Item E in Appendix G presents standard language for the certification of compliance with the intergovernmental review process.

A grant applicant should include in the grant application a brief statement that identifies the manner of compliance with intergovernmental review.

#### 18. LABOR STANDARDS.

- a. Davis-Bacon Wage Rates. Prevailing wage requirements of the Davis-Bacon Act, as amended, (49 U.S.C. Section 5333(a)) apply to transit construction projects authorized by 49 U.S.C. chapter 53.

FTA must ensure that laborers and mechanics employed for construction projects covered by the Davis-Bacon Act will be paid at least the prevailing wages for their locality as determined by the Department of Labor (DOL). Thus, FTA may not award any FTA assistance authorized by 49 U.S.C. chapter 53 without obtaining adequate assurance that the prevailing wage requirements and required labor standards imposed by the Davis-Bacon Act will be maintained. This is accomplished when the grantee signs the grant agreement, which incorporates by reference a Master Agreement containing construction labor requirements.

- b. Protection of Transit Employees. Before FTA may award a grant for capital or operating assistance, fair and equitable arrangements must be made to protect the interests of transit employees affected by the proposed FTA assistance (49 U.S.C. Section 5333(b)). Those arrangements must be certified by the Secretary of Labor as meeting the requirements of the statute. The Department of Labor issued new guidelines on December 7, 1995 (60 Fed Reg. 62964), providing information concerning its procedures for processing applications for FTA assistance and its certification of acceptable protective arrangements. The new guidelines became effective January 29, 1996.

When a labor organization (union) represents a group of affected employees in the service area of an FTA project, the employee protective arrangement is usually the product of negotiations or discussions with the union.

These protections must be afforded to all transit employees in the service area of the project, including the employees of the grant applicant, employees of other FTA grantees, and employees of any other public or private transit provider, including providers of transit service by contract. Consequently, the grant application submitted to FTA must identify each transit provider in the service area of the project and be accompanied by a list of any union(s) and the transit provider's employees they represent. The grant application must also identify transit providers in the service area whose employees are not represented by a union.

If there is no change from the most recent Urbanized Area Formula Program grant application in the list of unions and transit providers in the service area, the grant applicant may make a statement to that effect and need not submit the list. However, when any of the grant applicant's employees change the labor organization representing them, the grant applicant must identify the changes made in its next grant application submitted to FTA.

The grant applicant can also facilitate DOL certification by identifying in the application any previously certified protective arrangements that have been applied to similar projects undertaken by the grant applicant.

Upon receipt of a grant application requiring employee protective arrangements, the FTA Regional Office will transmit the application to DOL and request certification of the employee protective arrangements. There are exceptions in which referral is not required. For example, the new DOL guidelines eliminate the referral of grant applications when the grant request is for routine replacement of equipment and/or facilities of like kind and character, absent a potentially material effect on mass transit employees in the service area of the project. Similarly, grant applicants must specify to FTA whether the urban formula assistance requested in whole or in part is for routine replacement items.

With regard to grant applications requesting FTA assistance for other than routine replacement, DOL notifies the relevant unions in the area of the project that a grant for transit assistance is pending and affords the grant applicant and union the opportunity to agree to an arrangement establishing the terms and conditions of the employee protections. The referral from DOL will include the intended terms of certification.

The newly published DOL Guidelines provide for strict time frames for processing and issuing labor protective certifications. Parties will be given 15 days from the date of referral to submit objections, if any, to the referral terms. DOL will seek technical advice from FTA regarding whether objections raised are sufficient to require negotiations. If DOL determines that the objections are not sufficient, then DOL will issue its certification on the terms specified in the referral. If objections are found to be sufficient, the parties have 60 days from the date of referral (i.e., 45 days from the deadline for submitting objections) to resolve differences. If no agreement is reached within the 60-day period, DOL will issue an interim certification, permitting the release of Federal transit grant funds. If no agreement is reached after an additional 60 days of negotiation (120 days total), DOL will set the protective terms in a final certification.

If an appropriate protective arrangement already exists from a previous grant, DOL proposes certification on that arrangement, and new negotiations begin only if a party to the arrangement objects to the proposed certification. If necessary, DOL furnishes technical and mediation assistance to the parties during their negotiations. The Secretary of Labor may determine the protections to be certified if the parties do not reach an agreement after good-faith bargaining and mediation efforts have been exhausted. DOL will also set the protective conditions when affected transit employees are not represented by a union.

When DOL determines that an agreed-to employee protective arrangement complies with 49 C.F.R. Section 5333(b), or when the Secretary of Labor determines the protections to be applied, DOL will provide a certification to FTA. The grant agreement between FTA and the grant applicant incorporates by reference the employee protective arrangements certified by DOL.

Questions concerning employee protective arrangements and related matters pertaining to transit employees should be addressed to the Office of Statutory Programs, Department of Labor, 200 Constitution Avenue, N.W., Room N-5603, Washington, D.C. 20210; telephone (202) 219-4473, fax (202) 219-5338.

19. LEASE VS. BUY CONSIDERATIONS. A grant applicant may use Urbanized Area Formula Program capital funds to lease capital assets from another party, where justified. In addition to the certifications required by 49 U.S.C. Section 5307, to the extent the grant applicant uses the formula funds to acquire any capital asset by lease, the applicant must certify that it will comply with the procedures described in FTA regulations, "Capital Leases," 49 C.F.R. Part 639. Category XII, Item B in Appendix G provides standard language for the capital leasing certification.

For the acquisition of capital assets by lease to qualify for capital assistance, a grant application must make a written comparison of the cost of leasing the asset with the cost of purchasing or constructing it and certify to FTA that obtaining the asset by lease is more cost-effective to the grantee than purchase or construction. The grant applicant must complete the calculations before entering into the lease or before receiving a capital grant for the asset, whichever is later. Moreover, the grant applicant must not enter into a capital lease for which FTA can only provide incremental funding unless the applicant has the financial capacity to meet its future obligations under the lease in the event Federal funds are not available for capital assistance in subsequent years. The FTA regulation provides instructions on the comparison of leasing and purchasing capital assets. Obtaining the asset by lease is more cost-effective than purchase or construction when the lease cost is less than the purchase cost, as calculated in the manner described in the regulation.

20. LOBBYING. A certification and, when appropriate, a completed disclosure form must be submitted by the grant applicant in accordance with 31 U.S.C. Section 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and U.S. DOT implementing regulations, "New Restrictions on Lobbying" (49 C.F.R. Part 20). Section 1352 requires that all persons (meaning organizations as well as individuals) that request or receive Federal contracts, grants, or cooperative agreements exceeding \$100,000, or loans, loan guarantees, or insured loans exceeding \$150,000, submit a certification that Federal appropriated funds were not used to influence or attempt to influence the transactions. Standard language for the certification appears in Appendix G, Category II. Grantees and contractors are required to disclose certain lobbying activities conducted with funds derived from other than Federal sources. If anyone is hired to lobby on behalf of the potential recipient requesting the Federal funds, Section 1352 requires that a disclosure statement, Standard Form LLL, be completed naming the lobbyists and the

amounts paid to them. These requirements also apply to subgrantees and subcontractors. A copy of Standard Form LLL appears in Appendix F as "Lobbying-Disclosure."

Lobbying is not prohibited by Section 1352. Using federally appropriated funds to pay for lobbying is prohibited. Disclosure is not required for the lobbying activities of long-term regularly employed officers or employees of grantees (that is, persons employed at least 130 working days within 1 year immediately preceding the date the grant application is submitted). Only the activities of hired lobbyists and newly hired officers and employees must be disclosed.

Activities such as submitting grant applications, status inquiries, and professional and technical services are not lobbying and do not need to be disclosed. Efforts to influence Federal officials about specific grants and contracts or to ask Congressional representatives for support of a particular application or bid must be disclosed.

A state applying for a grant on behalf of several subgrantees must keep on file the certifications of the subgrantees.

Disclosure forms, if appropriate, must be submitted when the grant applicant makes its first grant application. Additionally, disclosure forms are required each calendar quarter following the first disclosure if there has been a material change in the status of the previous disclosure. A material change is defined in the following way:

- a. a cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
- b. a change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or
- c. a change in the officer(s) or employee(s) or Member(s) contacted to influence or attempt to influence a covered Federal action.

21. **NEW STARTS.** Urbanized Area Formula Funds are occasionally applied to support a "new start." FTA uses the term "new start" to mean a project that involves building a new fixed guideway system or extending an existing fixed guideway. The new start can be a light rail line, subway line, commuter rail, automated fixed guideway system (such as a "people mover"), a "bus rapid transit" system operating on a fixed guideway, or a busway/high occupancy vehicle (HOV) facility, or an extension of any of these. Also, new start projects can involve the development of transit corridors and markets to support the eventual construction of fixed guideway systems, including the purchase of land to protect rights-of-way or construction of park-and-ride lots.

Funds from the Urbanized Area Formula Program applied to a new start are usually applied in the project's earlier stages--planning and project development, preliminary engineering, and final design. However, Urbanized Area Formula Program funds have also supported the construction phase. Grant applicants interested in assistance through the Urbanized Area

Formula Program to support a new start project should turn to Appendix C for a description of the new start development process. Most commonly, the greater portion of funds that support the construction of a new start project are those from the FTA Capital Program, authorized by 49 U.S.C. Section 5309. Thus, a grant applicant wishing to learn in more detail the procedures and requirements that apply to new starts should refer to FTA Circular 9300.1A, "Capital Program: Grant Application Instructions," Chapter V, "New Starts."

22. NEW TECHNOLOGY INTRODUCTION. As noted in Chapter III, Urbanized Area Formula Program funds may be used for projects that introduce new technology. FTA encourages suppliers to produce, and transit providers to introduce new technology in transit service, in the form of innovative and improved products. Projects should meet the following criteria:

- a. The technology is shown to be suitable for transit operations by laboratory testing or limited testing in the transit environment or in a related transportation environment. Suitable in this context means a reasonable certainty that the technology will be safe, operable, feasible and will prove beneficial over a satisfactory useful life.
- b. Use of the new product is expected to result in increased efficiency in terms of time, cost or other equipment attributes, including the following:
  - (1) improved safety and security for passengers, employees, and the public,
  - (2) reduced vulnerability to intentional damage,
  - (3) enhanced ability to recover from man-made or natural disasters,
  - (4) better customer service in terms of convenience, comfort, passenger information, or reduction in number of transfers,
  - (5) increased accessibility for individuals with disabilities,
  - (6) improved productivity,
  - (7) better reliability and maintainability, or
  - (8) reduced pollutant emissions or environmental intrusion.

23. NONDISCRIMINATION--CIVIL RIGHTS REQUIREMENTS.

- a. Nondiscrimination Statutes. Discrimination in the use of Federal funds is prohibited by the following four statutes that concern civil rights:
  - (1) Title VI of the Civil Rights Act of 1964, as amended (Title VI). Title VI is intended to ensure that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance from the FTA.



- (2) 49 U.S.C. Section 5332(c) (Federal transit law). Under this statute, the Secretary of Transportation is required to take affirmative action to ensure that no person on the basis of race, color, creed, national origin, sex or age, shall be excluded from participation in, be denied the benefits of, or be subject to discrimination under any project, program, or activity funded in whole or in part by FTA. This provision applies to employment and business opportunities and imposes additional requirements to those provisions of Title VI.
  - (3) Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. Sections 12101 et seq.). Title II of the ADA prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities. It applies to all state and local governments, their departments and agencies, and any other instrumentalities or special purpose districts of State and local governments. It extends coverage to all public entities that provide public transportation, whether or not they receive Federal financial assistance. It establishes detailed standards for the operation of public transit systems.
  - (4) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794). Section 504 prohibits discrimination on the basis of disability in employment and services by recipients of Federal financial assistance.
- b. Programs. The applicable civil rights programs are: Title VI of the Civil Rights Act of 1964, as amended (Title VI); Equal Employment Opportunity (EEO); Disadvantaged Business Enterprise (DBE); and the Americans with Disabilities Act of 1990--(ADA), Section 504 of the Rehabilitation Act of 1973 (Section 504), and the respective Department of Transportation implementing regulations. The programs are discussed in paragraphs below.

All required civil rights program submissions must be approved by FTA and periodically updated, in accordance with program guidelines. To avoid any delay in the grant application approval process, early submission of these program elements to the appropriate Regional Office is recommended. It is the responsibility of FTA to ensure that grantees are in compliance with all civil rights program requirements that apply to transit-related projects.

- (1) Title VI. Each grant applicant or grantee must submit a Title VI program that addresses requirements enumerated in FTA Circular 4702.1, "Title VI Program Guidelines for Federal Transit Administration Recipients." First-time grant applicants, if located in areas with a population under 200,000, are only required to submit information relating to "General Reporting Requirements" of FTA Circular 4702.1. This information relates to active lawsuits or complaints, pending grant applications with other Federal agencies, the submittal of the DOT Title VI and FTA civil rights assurances, and the impact of transit projects on minority communities. First-time grant applicants in areas 200,000 and over in population must submit not only "General Reporting Requirements" but program-specific information such as maps/overlays showing bus routes and distribution of minority persons by census

tracts, and policy relating to service standards, that is, bus assignments, headways, etc.

After an initial Title VI program has been approved, an update is required every three years. For recipients in urbanized areas with over 200,00 in population, only a limited amount of information need be forwarded to the Regional Office for review. However, the entire submission must continue to be updated and available for review upon request. During a Title VI compliance review, all aspects of Circular 4702 requirements will be assessed. The full program data must also be available for other reviews, such as triennial reviews, complaint investigations, or on-site visits. A grant applicant contemplating submitting a grant application should ensure that its latest submission remains current.

Nondiscrimination requirements cover such areas as land acquisition and relocation of residences and businesses, impacts of construction, fixed guideways, placement of routes, vehicle assignments, availability of transit amenities such as bus shelters, headways, passenger loads, environmental considerations, public involvement, and multilingual communication.

If a grant applicant is planning the construction of a large FTA-assisted project such as a multimodal transportation facility or a fixed guideway system, prior to submitting a grant application for assistance, the applicant should be taking steps to ensure compliance with Title VI and 49 U.S.C. Section 5332. Such steps should include: informing all communities of public hearings or meetings regarding such a project; providing an opportunity for interested persons to be considered for selection to decisionmaking transit boards and advisory committees; and ensuring that input on a facility's accessibility and location will be obtained and decisions will be made without regard to race, color, creed, national origin, age, or sex.

Each grant applicant must certify annually that it is in compliance with the nondiscrimination requirements of Title VI. Standard language for that assurance appears in Category I, Item F of Appendix G.

- (2) Equal Employment Opportunity. A grantee with 50 or more employees that has received \$1 million or more in the previous Federal fiscal year must submit an EEO program to FTA. The specific components of this program may be found in FTA Circular 4704.1, "Equal Employment Opportunity Program Guidelines for Grant Recipients." In this program, grantees implement steps to ensure equal opportunity for employees and job applicants, without regard to race, color, creed, national origin, sex, age, or disability. A major focus of this program is the grantee's conducting an analysis of its work force to identify job categories and levels of employment in which minorities and women are underrepresented and, with the identification of those categories and levels, taking corrective action. After an original EEO program has been approved, an update must be submitted every three years. An organization contemplating submitting a grant application should ensure that its latest EEO program update remains current.

- (3) Disadvantaged Business Enterprise. DOT's Disadvantaged Business Enterprise program (DBEs) provides small and disadvantaged businesses the opportunity to compete for FTA-assisted contracts and participate in FTA-assisted projects. Section 1101(b) of TEA-21 requires that not less than 10 percent of the funds authorized by Congress for transit be expended with DBEs. Accordingly, if a grantee receives \$250,000 or more in FTA capital and/or operating assistance in a year (excluding funds for the purchase of transit vehicles), the grantee must submit an annual DBE goal to FTA for approval (49 C.F.R. Part 23, Subpart D, Appendix A, Section 23.64).

The grantee must also submit a DBE program indicating actions that will be taken to achieve this goal. Components that must be included in the DBE program are enumerated in FTA Circular 4716.1A, "FTA Disadvantaged Business Enterprise Requirements for Recipients and Transit Vehicle Manufacturers." After it receives FTA approval, the DBE program remains in effect until there are major changes.

The grantee must submit its annual DBE goal to FTA 60 days before the beginning of each Federal fiscal year (60 days before October 1).

- (4) Transportation of Persons with Disabilities. Compliance with the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. Sections 12101 *et seq.*) and Section 504 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. Section 794) and ADA implementing regulations at 49 C.F.R. Parts 27, 37, and 38, prohibits discrimination against individuals with disabilities in the provision of transportation service.

The ADA affects transportation providers in four significant ways. First, the ADA accessible vehicle requirements pertain to vehicle acquisitions by both public and private entities for fixed-route or demand responsive service. Second, the ADA contains accessibility requirements for the design and construction of new transportation facilities, alterations to existing facilities, and key stations on rail transit systems. Third, the ADA requires public entities providing fixed-route service to provide complementary paratransit service to people with disabilities who cannot use fixed route service. Fourth, the ADA includes service requirements intended to ensure that people with disabilities are afforded equal opportunity to use transportation vehicles and facilities.

Category I, Item G in Appendix G provides standard language for the grant applicant to assure FTA of compliance with U.S. DOT regulations carrying out Section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990.

24. PRIVATE ENTERPRISE CONCERNS. The concerns of transit law regarding private enterprise focus mainly on including the private sector in participating in local transit programs, ensuring that adequate compensation is provided a private provider when its transit facilities and equipment are acquired by a state or local governmental authority, and protecting private providers of transit from competition with federally assisted transit providers. A certification about the effects on private mass transportation companies must be

made by any grant applicant seeking Federal assistance to acquire property of a private company or operate transit equipment or a facility in competition with or in addition to service already provided by a private company.

- a. Participation by Private Enterprise. Both Federal transit law and joint FHWA/FTA planning regulations discussed in Appendix A impose strong requirements for private as well as public sector participation as transportation programs are developed. Plans and programs required for Federal transit assistance must encourage the participation of private enterprise to the maximum extent feasible (49 U.S.C. §5306(a)).

Federal law recognizes the special concerns of private transportation providers that compete with public mass transit authorities. By law, existing private transportation providers are afforded certain safeguards from competition. Specifically, FTA is prohibited from providing Federal assistance to a governmental body that provides service in competition with or supplementary to service currently provided by a private transportation company, unless FTA finds that the local transportation program developed in the planning process provides for participation of private transportation companies to the maximum extent feasible (49 U.S.C. Section 5323(a)(1)(B)).

Accordingly, Federal transit law (49 U.S.C. Section 5303(f)(4)) and the joint FHWA/FTA planning regulations direct special attention to the concerns of private transit providers in planning and project development. Joint FHWA/FTA planning regulations specifically require that private transit providers, as well as other interested parties, be afforded an adequate opportunity to be involved in the early stages of the plan development and update process (23 C.F.R. Section 450.322(c)). While FTA supports the participation of private transit providers in local mass transportation programs, FTA no longer imposes prescriptive requirements for determining whether a grant applicant has made adequate efforts to integrate private enterprise in its transit program, as explained in the FTA Federal Register Notice "Private Enterprise Participation," of April 26, 1994 (59 Fed. Reg. 21890 et seq. (1994)).

FTA relies on the local planning process, which must comply with rigorous planning and private enterprise requirements (49 U.S.C. Sections 5303-5306), and the joint FHWA/FTA planning regulations. To determine the adequacy of a grant applicant's efforts to incorporate private enterprise in its transit program, FTA monitors compliance with statutory and regulatory private enterprise requirements as part of the triennial reviews.

- b. Acquisition of Private Mass Transportation Facilities. Although acquisition of a private transit provider's property takes place less often than when Federal transit assistance was first established, Federal law recognizes the special concerns of private transportation providers whose property is acquired by public transit authorities. First, no Federal transit assistance authorized by 49 U.S.C. chapter 53 may be expended to acquire equipment or facilities currently being used in service in an urban area unless the transportation improvement program demonstrates that the acquired property will be so improved that the transportation needs of the area will be served better (49 U.S.C. Section 5306(a)). Second, FTA is prohibited from awarding Federal assistance to a

governmental body to acquire property from a private transportation provider unless just and adequate compensation under state or local law will be paid to the private provider for acquisition of its franchises or property (49 U.S.C. Section 5323(a)(1)(C)).

Private providers of charter and school bus service are afforded certain protections from competition with public transit authorities. Grant applicants that operate bus or van services should refer to paragraph 9c in this chapter for an explanation of the limits these protections place on federally assisted transit operators.

25. REAL PROPERTY ACQUISITION AND RELOCATION ASSISTANCE: If a grant applicant intends to use Federal financial assistance in a project which will require real property, the applicant must provide assurances--required by Sections 305 and 210 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act)--that it will comply with the Uniform Act and with U.S. DOT implementing regulations (49 C.F.R. Part 24). Category X in Appendix G provides standard language for the assurances.

The 49 C.F.R. Part 24 regulation is a government-wide regulation that applies to all Federal or federally assisted activities that involve the acquisition of real property or the displacement of persons. As such, the regulation is specific in naming certain actions that must be taken to achieve uniformity in the treatment of property owners and displaced persons. Grantees in the process of planning a federally-assisted project that will require the displacement of persons should be aware of the regulatory need for relocation planning during the early stages of project development.

In addition to the requirement for early relocation planning, following are some of the other regulatory requirements for acquiring real property that will be used in a Federal project. The discussion that follows is not comprehensive; it will be necessary for the grantee to study the regulation and work with the Regional Office to determine what applies to the grant applicant's situation.

No individual, family, partnership, corporation, or association will be required to move without at least 90 days' advance notice. In the case of residential displacees, the 90-day notice must also include the availability of at least one comparable replacement dwelling. All displacees--both business and residential--are reimbursed for moving expenses.

There must be as many residential dwellings available as there are families who will be displaced. The dwellings must be comparable to the ones from which the families are displaced. In addition, the comparable replacement dwellings must be decent, safe and sanitary; located in the same area or in areas generally not less desirable in regard to public utilities and public and commercial facilities; reasonably accessible to the displacees' places of employment and within the financial means of the displaced families. Replacement housing must be open to all persons regardless of race, color, religion, sex, or national origin.

Before making an offer to the property owner, the grantee must first establish market value of the parcel to be purchased. Market value is to be established through a current appraisal and appraisal review. No owner shall be required to surrender possession of real property without either payment of the agreed purchase price or deposit of the established just compensation in condemnation court and available to the owner. The grantee must expeditiously reimburse property owners for actual, reasonable, and necessary expenses incidental to transfer of title.

If the acquisition leaves the owner with an uneconomical remnant, the grantee must offer to acquire that remnant. An uneconomical remnant is defined as a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property, and which the acquiring agency has determined has little or no value or utility to the owner.

Any decrease or increase in market value caused by the project or caused by the likelihood that a particular property is to be acquired for the project will be disregarded in determining just compensation for the property.

One may download a copy of 49 C.F.R. Part 24 from the GPO website at: "[www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html)." One may contact an FTA Regional Office for a copy of the law, itself, in its amended form.

In addition, the grantee should inform itself of state laws regarding compensation for real property and requirements for relocation of persons and personal property.

Prior FTA concurrence must be obtained for property transactions in excess of \$250,000, for administrative settlement acquisitions exceeding current market value by \$50,000, and for initiating condemnation action. The effects of contamination should be investigated prior to taking title. FTA Circular 5010.1C, "Grant Management Guidelines," lists program management requirements.

Real property may be contributed as part of the local matching share. Credit can be allowed only for that portion of the property needed to carry out the scope of the project. Federal funds must not have been used to purchase any property proposed as local matching share. The contribution-in-kind property will be valued at its current market value and when incorporated into the project will be subject to the same reporting and disposition requirements required of all project property.

26. SEISMIC DESIGN AND CONSTRUCTION STANDARDS. A grant applicant must assure FTA that any new building or addition to an existing building built with Federal assistance is designed and constructed in accordance with seismic safety standards. The grant applicant is responsible to know before accepting delivery that the building complies with seismic design and construction requirements and, in accordance with U.S. DOT implementing regulations, "Seismic Safety" (49 C.F.R. 41.117(d)), must assure FTA that it will obtain a certificate of

compliance with the requirements. A grant applicant makes this assurance through the FTA annual certification process; see Category XI, Item C in Appendix G.

27. **STATE SAFETY OVERSIGHT.** Title 49 U.S.C. Section 5330 requires that a state that has within its boundaries a rail fixed guideway transit system not subject to regulation by the Federal Railroad Administration must establish and carry out a safety program plan for that rail fixed guideway system. The state must designate a state agency to oversee implementation by the transit agency of the safety program plan, to investigate hazardous conditions and accidents on the rail system, and to require corrective action to correct or eliminate the condition. When more than one state contains the rail fixed guideway system, the affected states together may designate an oversight agency. The transit agency shall not be designated as the oversight agency.

Rail fixed guideway system means any light, heavy, or rapid rail system, monorail, inclined plane, funicular, trolley, or automated guideway that is included in FTA's calculations of fixed guideway route miles or receives funding under FTA's formula program for urbanized areas and is not regulated by the Federal Railroad Administration.

- a. **Initial Submission.** The oversight agency of each state that has not already submitted the following information must submit this information, including the security provisions that were required by January 1, 1998:
- (1) Name and address of the oversight agency;
  - (2) Name(s) and address(es) of the transit agency or agencies subject to the oversight agency's jurisdiction;
  - (3) A written description of the oversight agency's oversight program, including the following information:
    - (a) A copy of its system safety program standard, including the security portion;
    - (b) Its procedures or process for reviewing and approving the transit agency's system safety program plan, including security;
    - (c) Its investigatory procedures; and
    - (d) Its procedures for ensuring that appropriate corrective actions have been taken by the transit agency to correct, eliminate, minimize, or control the investigated hazardous conditions.
- b. **Annual submissions.** Before March 15 of each year, the oversight agency must submit to FTA a publicly available annual report summarizing its oversight activities for the preceding 12 months, including a description of the most common probable causal factors of accidents and unacceptable hazardous conditions. Also, the oversight agency must certify annually to FTA that it has complied with the requirements of the FTA regulation implementing Section 5330. The implementing regulation was published at 60 Fed. Reg. 67034 on December 27, 1995, and is codified at 49 C.F.R. Part 659. Each certification must be signed by an official authorized by the oversight agency and must

comply with the certification provided in the appendix to the regulation, which is reproduced in paragraph d below.

- c. Addresses. Reports, annual summaries, and annual certifications must be sent to FTA's Office of Safety and Security, 400 7th Street, S.W., Washington, D.C. 20590.
- d. Certification. The appendix to Part 659 provides the following sample certification of compliance:  

"I, (name), (title), certify that (name of the oversight agency) has implemented a state oversight program that meets the requirements of 49 C.F.R. Part 659 and further certify that I have no conflict of interest with any rail fixed guideway system overseen as a result of 49 C.F.R. Part 659, nor does (name of the oversight agency) and its contractors."
- e. Penalty. If a state has not met the requirements of the regulations, or made adequate efforts to comply with them, the Secretary of Transportation may withhold up to five percent of a fiscal year's apportionment under the Urbanized Area Formula Program attributable to the state or an affected urbanized area in the state.
- f. Availability on FTA Home Page. The regulation concerning state safety oversight is available on the Internet at FTA Home Page address <http://www.fta.gov>.



## CHAPTER VI

### APPLICATION INSTRUCTIONS

1. ELECTRONIC GRANT APPLICATION. FTA expects applicants for Urbanized Area Formula Program funds to submit their grant applications electronically, absent unusual circumstances. Early in Fiscal Year 1999, FTA will introduce newly designed electronic grant application and management software. This will consist of a point-and-click system that contains "smart" selection options designed to streamline the grant application and management process. The system is compatible with the year 2000 and beyond ("Y2K-compliant").
  
2. APPLICATION CHECKLIST. This chapter contains a brief synopsis of items that must appear in a grant application for Urbanized Area Formula Program funds. The chapter also contains a list of items that must be submitted periodically to FTA but not necessarily at the time of the grant application, and a section on other items that FTA takes into account when reviewing a grant application. EXHIBIT VI-1 is a checklist that may be used by the grant applicant when preparing an application for Urbanized Area Formula Program assistance. The checklist contains two parts.
  - a. Part I, Application Contents, is a list of items of information that FTA expects to receive with each application, with additional text as necessary included within the "extended text field." Grant applicants often use the extended text field to describe briefly the grant request and to include information concerning significant or unusual aspects of the grant request.
  - b. Part II, Approval Prerequisites, contains information items FTA requires before FTA may award a grant. Current information is required and may be submitted in the grant application if not reflected in FTA records.

In addition to the information listed, FTA reserves the right to request additional information or documents specific to the grant application.

3. APPLICATION PACKAGE. To submit a grant application electronically, please follow the instructions within the FTA electronic system. FTA regional staff will provide assistance as needed. Applicants not using the electronic system must submit an original and two copies of the grant application to the geographically appropriate FTA Regional Office. Regional Offices and the states and territories they serve are listed in Chapter VIII. The Regional Office staff will forward the grant application to the Department of Labor (DOL) for certification of transit employee protective arrangements.

4. FTA ASSISTANCE. One of FTA's major responsibilities is to provide assistance to grant applicants in preparing their grant applications. Also, Regional Office staff can advise how specific laws, regulations, Federal Register notices, and Executive Orders may be obtained.
5. REVIEW TIME FRAME. Grant applications received by the first business day of the calendar quarter will be processed on or before the end of that quarter, provided they are "complete" applications.
6. COMPLETE APPLICATION. Please see Chapter I, paragraph 8a for discussion of a complete application. In addition to submitting items listed on the checklist, the grant applicant should review specific elements of the application with appropriate Regional Office staff, because the circumstances of an individual proposed project vary from project to project. For example, while the checklist contains the item "environmental review," one project's circumstances may require information or documentation related to park lands, historic properties, wetland protection, flood plains, noise, vibration, or relocation planning, and another project may require no information on these subjects.
7. APPLICATION CONTENTS. The following information should be submitted or be in FTA's records for each grant application for Urbanized Area Formula Program funds. Some information need only be included if the information's purpose fits the nature of the grant application. These items will be denoted with the term "if applicable" or "at the option of the grant applicant." Other items represent one-time submissions, which should already be in FTA's records, unless the grant application is the first from the grant applicant.
  - a. Fields within Windows of the Electronic System. The electronic system provides for submission of all the same information required in a paper application. Certain fields contain data derived from other windows, thus minimizing data entry. Some fields require only limited data while the extended text fields permit the grant applicant to enter as much information as is deemed necessary to complete the application. For example, information formerly included in a transmittal letter may be entered in the extended text field of the project information window. The extended text field may be used, for example, to notify FTA that the grant applicant has used pre-award authority for activities listed in the grant application. It may be used to indicate whether funds from existing grants need to be deobligated to finance any portion of the grant application or whether proceeds from the sale of assets from a former project are being used to reduce the gross project cost of this current project. It may be used to inform FTA whether the grant applicant will be seeking Capital Program (49 U.S.C. Section 5309) funds during the current Federal fiscal year. In the case of insufficient Urbanized Area Formula Program funds to finance the grant applicant's entire proposed program, the grant applicant may wish to use this portion of the grant application to describe how the grant applicant anticipates funding the shortfall (e.g., future Urbanized Area Formula Program apportionments, transfers from other programs, deobligation of funds from existing grants, flexible funds, etc.). The extended text field may be used to discuss the status of any outstanding actions required, such as pending flexible fund transfers, along with the

date of expected action. It may be used to inform FTA that a deferral of the local share for the project, or a portion thereof, is being requested. The extended text field may be used to enter other qualifying information deemed appropriate.

If a transmittal letter is submitted, the transmittal letter must be signed by the authorized official.

- b. Designation of Recipient. This information establishes the grant applicant's designation as an eligible recipient of Urbanized Area Formula Program funds. FTA retains records of the original designation. A grant applicant that is a designated recipient must obtain this designation from the Governor of the state prior to submitting a grant application for FTA assistance. A new record is also required if the Governor should choose to change the designated recipient in a given urbanized area. (Refer to Chapter II, paragraphs 1 and 3, concerning designations.)

Designated recipient information or documentation may be submitted at the time of each grant application or on a one-time basis. If the latter is chosen, the documents need only be resubmitted if a change occurs that requires that they be updated.

- (1) Designated Recipient Concurrence, if applicable. This information is required if the grant applicant is a different entity from the designated recipient. See Chapter II, paragraphs 1 and 3 regarding the requirement for this information.
- (2) Pass-through Arrangement, if applicable. If the grant applicant intends to pass the funds through to another entity, FTA must be informed. (See Chapter II, paragraph 4.)
- c. Standard Form 424. All information required by Office of Management and Budget Standard Form 424 "Application for Federal Assistance," (revised April 1988) must appear or be entered in the appropriate windows of the electronic system. (See Appendix F for SF 424 and representative screens.) This information must be completed in its entirety, including information pertaining to any delinquent indebtedness to the U.S. Government, and be attested to by the authorized official identified in the Authorizing Resolution that accompanies the annual certifications and assurances (Appendix G).
- d. Proposed Project Budget. FTA uses the same budget format for all grant programs it administers. For electronic applications, the project budget windows must be completed. Chapter VII contains information for preparing a budget. The budget submitted must enumerate a list of projects and the estimated amounts of Federal and total funds for each. Grant applicants are asked to provide details of proposed projects according to the Activity Line Item Code Chart contained in Chapter VII in EXHIBIT VII-9.
- (1) Local Share Deferral Documentation, if applicable. The FTA policy on deferring a project's local share allows a grant applicant to request that the expenditure of local share funds in a grant be deferred until Federal funds obligated have been drawn down, in lieu of providing local funds to match project expenses at the same time that Federal funds are used. This policy does not apply to operating assistance

projects or to projects with full funding grant agreements. See Chapter I, paragraph 7f for a description of the information to be included.

- (2) Flexible Funding Documentation, if applicable. A grant applicant seeking the use of flexible funds for its program, or a portion thereof, must first ensure that the funds are available locally, in accordance with the specific project selection process for the local area. Once this resource of funds is included in the TIP, and incorporated into the STIP, the grant applicant informs the state transportation agency when application is made to FTA for obligation of the flexible funds and requests that the state inform the Federal Highway Administration of the need to transfer the funds to FTA for obligation. (In some states, in practice, the MPO or the FTA notifies the state transportation agency.) Information showing that these processes are underway should be included in the grant application--on the appropriate extended text field of the electronic system or in the transmittal letter--to inform FTA of the status. Information also to be provided includes the type of flexible funds, the amount, the purpose for which the funds will be used, and where they appear in the STIP. (See Appendix E, "Procedures Related to Flexible Funding.")
  - (3) Other Funding Information, if applicable. Please see paragraph 8f below regarding the Governor's allocation letter, paragraph 8g below concerning the area suballocation agreement, and paragraph 9b concerning FTA's determination of sufficient funds.
- e. Project Level Description and Justification. This information must be in sufficient detail for FTA to obtain a general understanding of the nature and purpose of the planned activities, including substitute (contingency) projects discussed in Chapter V, paragraph 6g. There is a specific text field for this information associated with each activity line item. The grant applicant must briefly summarize the project, drawing, in particular, from the transportation plan, TIP, STIP or environmental record. If other planning documents form the basis for a project or projects, FTA should be provided with that information or those documents. Examples include feasibility or needs assessment studies, subarea or corridor level studies, transit development programs, and results from the public Transportation Management System. Also, see paragraph 9c below concerning engineering review.
  - f. Project Milestone Schedule. There is a specific window for estimated milestones in the grant application menu. This schedule consists of estimated milestone dates for major activities and an overall project completion date. Estimated milestone dates should be included for such events as bid advertisement, bid award, contract completion, etc. The overall project completion date should allow for audit and close-out of all individual third party contracts. If the grant applicant has used pre-award authority granted by FTA and if a milestone has occurred in advance of grant award, the actual milestone date should be noted in the Project Milestone Schedule. A sample Project Milestone Schedule appears in Appendix F.

- g. List of Labor Unions. This information, part of the electronic Grantee Profile, is used by DOL in making the certification of labor protective arrangements required for Urbanized Area Formula Program grants. If the grant applicant's employees are not unionized, it is advisable to so state in this exhibit. (See Chapter V, paragraph 18, "Labor Standards" regarding routine replacement.) A grantee may update this information electronically in an appropriate field.
- h. Environmental Exhibit. This submission includes a proposed classification of each activity line item in accordance with FHWA/FTA Environmental Impact and Related Procedures. (See 23 C.F.R. Parts 771.115 and 771.117.) Grant applicants should refer to Part 771.117(c) and (d) for a listing of the Class II projects which normally meet the criteria for a categorical exclusion, and must submit proposed classifications for each project and, if appropriate, supporting information or documentation. The specific electronic window designed for this information is part of the application menu.

If a project does not clearly meet the criteria for a categorical exclusion, a grant applicant is strongly encouraged to contact the FTA Regional Office for assistance in determining the appropriate environmental review process and level of documentation. Most projects under the Urbanized Area Formula Program meet the conditions or criteria established for categorical exclusions, and for these projects it is feasible to make grant approvals within the quarterly grant release cycle. However, if there are unresolved environmental concerns, the project cannot be advanced to final design or construction, and the grant decision will be deferred until the environmental review process is completed. (See also Chapter V, paragraph 11, "Clean Air Act" and paragraph 14, "Environmental Protection.")

- i. STIP Information. In the electronic system's fields requiring STIP information, the grant applicant should provide the date of the most recent approval of the STIP by FTA and the page numbers in the STIP on which the projects included in the grant application appear.
- j. Transportation Improvement Program. All projects for capital and operating funds in the grant application must be included in the current TIP approved by the MPO and the Governor of the state, as well as in the STIP, jointly approved by FTA and FHWA. FTA funds cannot be obligated unless the STIP is approved by FTA. The application should note the page(s) from the TIP contained in the most recently approved STIP on which the project(s) contained in the application are listed. The electronic system has a field for the date of the most recent STIP approval. See paragraph 8, Periodic Submissions, for a further discussion of the TIP submission which should be on record with FTA at the time the grant application is filed.
- k. Master Agreement. FTA uses an abbreviated grant agreement that incorporates by reference in a Master Agreement most terms and conditions applicable to the FTA project for which a grant has been awarded. Each grantee is expected to retain the applicable Master Agreement. The latest issued Master Agreement will apply to any grant pursuant

to an application. A grant applicant that does not have the latest Master Agreement in its records should request a copy from the appropriate Regional Office.

8. PERIODIC SUBMISSIONS. The items below must be provided on a periodic basis. Their status will be reviewed by FTA during the grant application review process to determine if they are up-to-date. A grant applicant is advised to check the status of these items when contemplating submitting a grant application.

- a. Annual Submission of Certifications and Assurances. A grant applicant applying for assistance under the Urbanized Area Formula Program, and under any other FTA grant program, must, once each year, make all certifications and assurances that can be expected to apply to any grants the grant applicant will request within the fiscal year. The certifications and assurances were discussed in Chapter V, "Requirements for Urbanized Area Formula Program Grants." Sample certifications used in the past are presented in Appendix G; the specific text of particular certifications may change and new certifications may be added as a result of TEA-21 or other Federal laws, but many of the certifications and assurances set forth in Appendix G will remain substantially the same.

The certifications and assurances the grant applicant submits to FTA will remain valid until it submits new certifications and assurances. If, during the interim, the circumstances under which a grantee has submitted the certifications and assurances should change, it will be necessary for the grantee to alert FTA to those changes and resubmit the information. Otherwise, the certifications and assurances the grant applicant has selected will remain in effect for all grant applications submitted to FTA during the period for which the certifications and assurances are submitted.

Some grant applicants may prefer to or are required by local law to submit the Certified Authorizing Resolution with each application, and that is acceptable. Some grant applicants prefer to submit the Opinion of Counsel with each application, and that is acceptable.

- b. Civil Rights Submissions. These include Title VI Plans and their updates, EEO Program, DBE Program, and ADA Paratransit Plan Updates. The FTA Regional Office must determine if those submissions are current and valid at the time that the grant application is submitted. A grant applicant should maintain readily available records of FTA approvals of current civil rights submissions in the event a question concerning compliance should arise. (See Chapter V, paragraph 23, "Nondiscrimination.")
- c. National Transit Database Reports. Recipients of Urbanized Area Formula Program funds are required to submit annual reports to the National Transit Database. When FTA receives a grant application, it must determine that the grant applicant's current report to the National Transit Database has also been received. The due dates for these reports depend upon the ending date of the grant applicant's local fiscal year. (See Chapter IV, paragraph 3, and Chapter V, paragraph 2.)

- d. Transportation Improvement Program. As stated, all projects for capital and operating funds in the grant application must be included in the current TIP approved by the MPO and the Governor, and in the STIP, jointly approved by FTA and FHWA. Amendment actions required to be taken with regard to the TIP must be reflected in the STIP, and subsequently approved by FTA and FHWA. (See Appendix A concerning the relation of the local planning process and the Urbanized Area Formula Program, specifically paragraph 6, The Transportation Improvement Program.)
- e. Unified Planning Work Program. A grant applicant seeking to use Urbanized Area Formula Program funds for planning projects should ensure that those funds are included in the local Unified Planning Work Program (UPWP). If this is not the case, the MPO must approve an amendment to the UPWP, and the information evidencing this approval must be submitted to FTA with the grant application. (See Appendix A.)
- f. Governor's Allocation Letter, if applicable. Where the state is not the grant applicant for Urbanized Area Formula Program funds under the Governor's Apportionment, the state is requested to submit its allocation of funds for the areas under the Governor's Apportionment to ensure that funds are distributed in accordance with the state's plan. States may submit this information at the beginning of each quarterly grant release cycle, or annually, whichever is preferred. (See Chapter IV, paragraph 6, "Transfer of Apportionments.") A grant applicant whose funds are allocated to the Governor should coordinate with the state to ensure that funds will be made available for the projects in the grant applicant's proposed program.

FTA also requires approval from the Governor before funds will be obligated for grants that include transfers of Urbanized Area Formula Program funds from urbanized areas with populations over 200,000. See Chapter IV, paragraph 6 concerning procedures.

- g. Split of Urbanized Area Allocation, if applicable. Submission of this information is required when there is more than one grantee or designated recipient in an urbanized area. FTA expects local officials, operating through the MPO, and designated recipients to determine the allocations through any process agreeable to the designated recipients. (See Chapter IV, paragraph 8.) An example of an area suballocation agreement appears in Appendix F.
9. OTHER ITEMS ADDRESSED DURING APPLICATION REVIEW. The following items and/or findings are addressed by FTA as part of its application review. Grant applicants need only be aware of them.
    - a. Certification of Labor Protective Arrangements. This certification is obtained by FTA from DOL and is required in order for FTA to obligate funds for capital and/or operating assistance projects. It results from a process conducted by DOL in which grant applications are referred to any existing local unions that may be affected by the projects in the program. The unions are given an opportunity to make their concerns (if any) known to all parties. For a grant applicant with labor unions, the terms and conditions of their collective bargaining agreements cannot be violated as a result of the projects in the

program. Grantees with no union employees involved in transit operations are subject only to a standard labor protective warranty. (See Chapter V, paragraph 18, "Labor Standards.")

- b. Determination of Sufficient Funds. FTA reviews the status of an urbanized area's apportionment, including prior year carryover balances as well as current year allocations, to ensure that sufficient funds exist to finance the proposed program. FTA obligates Urbanized Area Formula Program funds on a first-in, first-out basis to ensure that the oldest funds are obligated before more recent funds. This process prevents the potential of funds lapsing in a given urbanized area, which would render them no longer available to the area for obligation.

It is important to note that grantees should periodically examine the status of existing grants to ensure that unused balances consisting of funds with a potential to lapse are in fact needed to complete those grants. Any excess funds should be promptly deobligated during their period of availability so that they may be reobligated into any pending or upcoming grant application. This practice results in the most prudent use of scarce Federal resources.

- c. Engineering Review. For projects involving construction or rehabilitation work, FTA reviews the information provided with the grant application, along with any pertinent documents that may be on record, to make a determination on such things as reasonableness of cost, sufficiency of preliminary engineering and design work completed, eligibility of force account costs, etc. For this reason, it is important that a grant applicant include enough detail in the descriptive information about these projects to allow a positive determination during the project review period. For facility construction projects, the grant applicant should indicate the level of engineering work completed, and the results of that work (i.e., appropriate drawings and cost estimates) should be included. Site selection studies and any pertinent information or documentation concerning environmental work performed for projects involving land acquisition and construction are necessary. For more information on the documentation requirements for these types of projects, the grant applicant should contact the appropriate Regional Office.
- d. Oversight. FTA is authorized by 49 U.S.C. Section 5327 to perform oversight reviews of grantee performance. Oversight reviews include project management, safety, procurement, management (including civil rights), and financial compliance reviews. FTA Circular 5010.1C, "Grant Management Guidelines," provides details on the types of oversight reviews. When a deficiency is identified in the management or operating system of a grantee, a grantee is responsible to take corrective action. FTA offers to provide technical assistance, and the grantee is asked to develop a corrective action plan. All actions must be completed in a timely manner, usually within a year. Failure by the grantee to take corrective action within the time established between the grantee and FTA moves the issue to a more serious level of noncompliance, which would signify a history of unsatisfactory performance under "high risk," as described in the Common Grant Rule at 49 C.F.R. Section 18.12. At the time of grant application, FTA will review whether



there is a deficiency finding, whether a plan to correct the situation has been developed, and whether progress to remove the deficiency is taking place.

10. COMMONLY OVERLOOKED ITEMS. The following is a list of the most commonly overlooked application submissions. A review of these items may prevent delays or the potential deferral of grantee applications.
  - a. Appropriate environmental information or documentation;
  - b. Sufficient project level description/associated cost information;
  - c. Up-to-date Civil Rights submissions, dates of latest FTA approval actions;
  - d. Inclusion of all projects in the metropolitan and statewide transportation improvement programs;
  - e. Flexible funding arrangements not in place;
  - f. Urbanized Area Formula Program funds for planning assistance projects not included in Unified Planning Work Program;
  - g. Governor's allocation letter; and
  - h. Grantee funding split agreements.

## EXHIBIT VI-1

**CHECKLIST FOR GRANT APPLICANT****A. Application Contents (to be submitted as part of grant application)**

( If grant applicant cannot submit a grant application electronically, it should submit an original and 2 copies for DOL labor protection certification.)

1. Transmittal letter, if appropriate
2. Grant applicant is designated recipient  
Concurrence of designated recipient if grant applicant differs from designated recipient
3. Application for Federal Assistance - all information in OMB Standard Form 424  
(see Example "Application" in Appendix F)  
Federal debt delinquency noted because frequently overlooked
4. Project Budget
  - a. Request to defer local share, if appropriate, with benefits to transit identified
  - b. Confirmation that amount of Federal funds requested has been allocated
  - c. Agreement concerning division of funds when more than one Designated Recipient is in the same urbanized area.
5. Project Description
6. Project Justification<sup>1</sup>/Supporting documentation as necessary
7. Project Milestone Schedule (see Appendix F) (include pre-award authority/activities)
8. Labor Union Description(s) (including information about previous DOL certifications that may apply to this project)
9. Environmental Review
  - a. Date of FTA's signing of FONSI (Finding of No Significant Impact), or
  - b. Date of FTA's signing of ROD (Record of Decision) closing out the EIS process, or
  - c. Grant applicant's Categorical Exclusion recommendation if neither a nor b above applies
10. STIP - Date of latest approval by FTA, including date of latest amendments (please provide projects' page numbers)
11. Request for copy of Master Agreement, if the grant applicant does not have the latest.

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<sup>1</sup> Brief summary of planning and environmental justifications for project, including information on make-up of fleet and spare ratios if project involves rolling stock.

EXHIBIT VI-1 (continued)

**CHECKLIST FOR GRANT APPLICANT (continued)**

**B. Approval Prerequisites (in FTA's records, or to be submitted with application and updated as appropriate)**

1. Opinion of Counsel (for first time grant applicant; see example in Appendix F)
2. Authorizing Resolution (for first time grant applicant; see example in Appendix F)
3. Current annual Certification and Assurances. Activities in the grant application are covered by the Certifications and Assurances (that is, for example, if project includes acquiring real estate, then certification on real property has been made)
4. Civil rights submissions up-to-date
  - a. Title VI
  - b. DBE Program
  - c. EEO Program
  - d. ADA
5. National Transit Database reports up-to-date
6. Any outstanding oversight findings resolved or resolution plan and schedule set



## CHAPTER VII

### INSTRUCTIONS FOR PREPARING A PROJECT BUDGET

1. INTRODUCTION. Chapter VII provides information about the items that appear on an Approved Project Budget and gives assistance for preparing a project budget. An FTA grant obligates a grantee to undertake and complete activities defined by the purpose or purposes of a grant and the budget incorporated into the grant agreement. A grant budget is the approved financial plan that FTA and the grantee agree will be followed in carrying out the purposes of the grant.
2. FTA BUDGET CONCEPT. FTA has developed a single budget document that can be used for any of the FTA grant programs. A sample of an "Approved Project Budget," included as EXHIBIT VII-7, shows the manner in which FTA transmits funding information to the grantee. This budget form has eliminated some administrative steps from previous practices and is designed, as well, to accommodate grantees that send budget data electronically to FTA. An applicant should prepare the project budget in this form when preparing a grant application and a request for budget revision.

The basic concept for the document is derived from FTA's practice of managing a grant as a program of projects. Within a grant, there are often groups of activities related logically to each other; a group of related activities is called a project. Several projects form an overall program. Thus, a grant is a program of projects. The purpose of a group of activities is referred to as the scope of the group--that is, the scope of the project. Thus, a grant program may have several scopes.

3. CHANGING THE BUDGET. FTA grant management decisions regarding whether a budget revision may be made versus whether a grant amendment is necessary depend in large measure on the effect of the proposed change on the scope of the project. The activity level is used as information to assist in the decision. Although the subject of budget changes of the future may not appear relevant to a discussion of grant application procedures, the way the budget is initially structured can have an effect later when unforeseen events occur and a decision must be made as to whether a budget revision can be allowed (with or without prior FTA approval) or whether a grant amendment is necessary. Some examples will be given later in this chapter to illustrate choices in setting up the budget.

Grantees are permitted to revise the grant budget to meet unanticipated requirements. A grantee may move funds under a project from one activity to another, and the grantee may move funds within a program of projects from one project to another. There are restrictions, however, on the fraction of the funds to be moved and on the number of units

of rolling stock that can be affected. Generally speaking, as long as the change does not affect the scope of a project or does not affect the Federal/local matching ratio, a budget revision is permitted in lieu of a grant amendment. A close reading is encouraged of FTA Circular 5010.1C, "Grant Management Guidelines," in which the rules of budget changes, including the elements of a scope change, are presented. (See Chapter I of that circular.)

Scope changes and the change in the Federal/local matching ratio require a grant amendment. A grant amendment entails a project review, description and discussion of changes, often a review by the Department of Labor of the project's labor protective arrangements, and a newly executed grant agreement.

Between simple budget revisions and full grant amendments there is a middle set of budget changes that may or may not require a grant amendment. Grantees are encouraged to develop a budget that offers some flexibility in the event of future change; it is useful to set up a budget in such a way as to ensure that unimportant changes will not trigger the requirement for a grant amendment. Regional Offices can be helpful in this regard.

4. PRESENTING THE BUDGET. FTA uses at the most general level a scope code to establish the purpose of a project. Under the scope, a set of activities are brought together that will help to achieve the scope. The numbering of both the scope and activity levels of information on the Approved Project Budget is derived from the activity codes in the FTA electronic award and management system.. A separate listing of scope level codes forms EXHIBIT VII-9. A chart showing the activity codes forms EXHIBIT VII-10<sup>1</sup>. The reader should refer to this code chart and to the Approved Project Budget (EXHIBIT VII-7) in following the discussion of the format of the project budget.
5. FORMATS FOR CAPITAL EXPENDITURES. Capital expenditures under the Urbanized Area Formula Program fall under the categories of bus, rail, and new starts. Looking first at capital activities and the first three pages of the Activity Line Item Code Chart, one obtains the scope of a project by moving horizontally from left to right across the code chart and selecting one digit from the left-most box (capital), one digit from the second box from the left (bus, rail, or new start), and one digit from the third box from the left (revenue rolling stock, transit way lines, etc).

That is, the scope code begins with Capital, and then the grant applicant must choose between capital-bus, capital-rail, and capital-new start. Having made that choice, the grant applicant then moves right one more box, and must choose from revenue rolling stock, transit way lines, and station stops or terminals. Or, if those third boxes do not apply, the grant applicant moves to page 2 of the code chart and chooses again from the third set of boxes, this time from support equipment and facilities; electrification, power distribution; and signal and communication; or, on the following page, from other capital program items;

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<sup>1</sup> The activity code chart applies to all FTA grant programs.

state administration; and transit enhancements. The three digits from the first, second, and third boxes (moving to the right), constitute the scope code.

For example, if a grantee wishes to purchase buses, the scope code will be 1 (capital), 1 (bus), and 1 (revenue rolling stock), or 111. If, instead, the grantee wishes to purchase rail rolling stock, the scope will be 1 (capital), 2 (rail), and 1 (revenue rolling stock), or 121. Depending upon how many scopes are included in the budget within a specific category, a two-digit sequential number (e.g., -01) follows the three-digit scope number. In most cases, the first three digits of the scope code will match the first three digits of its corresponding activities. For example, if a grant applicant wished to purchase revenue rolling stock, the scope might be defined in the following way:

EXHIBIT VII-1  
Project Scope - Sample No. 1

Scope

111-01 Bus - Rolling Stock

Quantity:<sup>2</sup> 6

Activity

11.12.02 Purchase 35-foot replacement buses with lifts

Quantity: 4

11.13.03 Purchase 30-foot buses with lifts for service expansion

Quantity: 2

11.12.40 Spare parts

In the example above, a mix of rolling stock will be purchased, and the scope includes the purchase of associated capital maintenance items (spare parts). If a grant applicant wishes to include radios and fareboxes as part of this purchase, radios and fareboxes could also be listed as part of the rolling stock scope. In such case, the quantities for the radios and fareboxes would not be included in the rolling stock total quantity under 111-01, but would be indicated in the activity level description. If a grant applicant proposes to purchase an entirely new fare collection system or radio communications system, the more appropriate classification might appear as follows:

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<sup>2</sup> Although quantities have been included in the examples, FTA requires that quantities only for rolling stock be included in the budget, and then only at the activity level. Rolling stock quantities are shown in the scope level in the examples because the system automatically sums the rolling stock identified at the activity levels and prints the quantity at the scope level.

EXHIBIT VII-2  
Project Scope - Sample No. 2

Scope

113-01 Bus - Purchase fare collection system

(NOTE: In this example the activity code description appropriate to this Scope Code, Bus - Stations/Stops/Terminals, has been overwritten in order to provide a more accurate description.)

Activity

11.32.06 Purchase coin sorter

11.32.20 Purchase miscellaneous stationary fare collection equipment

11.42.09 Purchase fareboxes

Quantity: 45<sup>3</sup>

Scope

116-01 Bus Signal/Communications System

Activity

11.61.01 Design bus communications system

11.62.02 Purchase base stations

11.62.03 Purchase bus radios

Quantity: 50

11.42.09 Purchase mobile radios

Quantity: 20

As one can see from these examples, it is also possible to combine activities that are associated, but which do not necessarily match the first three digits of the scope code under which they appear.

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<sup>3</sup> The use of quantities for items other than rolling stock is optional.



A grant applicant that operates a fixed guideway system or that is engaged in a new start project will use scope level numbers that correspond to the rail and new start segments of the Activity Code Chart, e.g., scope code 121-01, 02...for Rail Rolling Stock or 131-01, 02...for New Start Rolling Stock; or 123-01, 02...for Rail Stations and 133-01, 02...for New Start Stations.

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

EXHIBIT VII- 3

Presenting Subrecipient Information - Format Option No. 1

Scope

111-01 Purchase Rolling Stock and Related Equipment  
Quantity: 7

Activity

11.12.03 Purchase small lift-equipped replacement buses for Allegany County  
Quantity: 3

11.12.15 Purchase lift-equipped vans for Cumberland Transit System  
Quantity: 4

11.12.40 Spare components for buses

11.42.10 Purchase of fareboxes for buses  
Quantity: 3

11.62.03 Purchase of radios for vans  
Quantity: 4

EXHIBIT VII-4  
Presenting Subrecipient Information - Format Option No. 2

Scope

111-01      Rolling Stock for Allegany County  
Quantity: 3

Activity

11.12.03      Purchase small lift-equipped replacement buses for Allegany County  
Quantity: 3

11.12.40      Spare components for buses  
11.42.10      Purchase fareboxes for buses  
Quantity: 3

Scope

111-02      Rolling Stock for Cumberland Transit System  
Quantity: 4

Activity

11.12.15      Purchase lift-equipped vans for Cumberland Transit System  
Quantity: 4

11.62.03      Purchase radios for vans  
Quantity: 4

Under Format Option No. 1, FTA determinations regarding budget revisions and scope changes would be based on the quantity total of seven vehicles found at the scope level. Under Format Option No. 2, those determinations would be based on the specific scope level quantity for each of the subrecipients, i.e., quantities of three and four.

- b. Two Budget Approaches to Subway Extension. Larger systems can also choose which of the two format options above best suit their internal management of projects. For example, a grant applicant building a subway extension may wish to develop separate scope level activities for each station and include the relevant activities under each, or the same grant applicant may wish to group all activity under one scope:

EXHIBIT VII-5  
Presenting Subway Extension - Format Option No.1

Scope

133-01 New Start Stations (Charles Center)

Activity

13.31.02 Engineering & Design

13.32.06 Purchase Stationary Fare Collection  
Equipment

13.32.08 Furniture/Graphics

13.33.02 Station Construction

13.72.04 Construction Management Services

Scope

133-02 New Start Stations (Owings Mills Station)

Activity

13.31.02 Engineering & Design

13.32.06 Fare Collection Equipment

13.32.20 Miscellaneous Passenger Amenities

13.33.02 Station Construction

13.72.04 Construction Management Services

EXHIBIT VII-6  
Presenting Subway Extension - Format Option No. 2

Scope

133-01 New Start Stations  
Charles Center & Owings Mills

Activity

13.31.02 Engineering/Design

13.32.06 Purchase Stationary Fare Collection  
Equipment

13.32.08 Furniture/Graphics (Charles Center)

13.33.02 Station Construction

13.32.20 Miscellaneous Passenger Amenities  
(Owings Mills)

13.72.04 Construction Management Services

In either of the above cases, budget revisions can be easily accommodated, since funds can be transferred between or among various scope level projects and their associated line items. For some major investment projects and/or full funding grant agreements, FTA may choose to issue Approved Project Budgets at the scope level only, but will still require that grantees submit the activity level budget information as shown above so that the grant award and management system will contain the appropriate level of detail to allow FTA to monitor the grant.

6. FORMAT FOR OPERATING ASSISTANCE. Scope 300 represents operating assistance. The activity line item codes for operating expenses--30.09.00 and 30.09.80--appear on page 4 of the activity line item chart. Activity line item 30.09.00 is used for the 50 percent Federal share of operating assistance available to all urbanized areas using FY 1998 funds, within the area's apportionment limitation. The activity line item 30.09.80 is used for operating assistance for areas under 200,000; this option applies only to operating assistance projects financed with FY 1998 funds at up to 80 percent Federal share. The Transportation Equity Act for the 21st Century (TEA-21) provides that, beginning with FY 1999 funds, operating assistance is available only to urbanized areas with populations

under 200,000 and at the 50 percent Federal share. The scope for operating expenses is the first three digits, 300. If funding is being requested for more than one local fiscal year for the same grant applicant, it is suggested that the funding be broken down at the activity level. For example:

Scope

300-01 Operating Assistance

Activity

30.09.00 Supplement to MD-90-X043 (Operating Assistance for the period  
7/1/96 - 6/30/97)

30.09.00 Operating Assistance for the period 7/1/97 - 6/30/98

30.09.80 Operating Assistance for the period 7/1/98 - 6/30/99

Designated Recipients requesting operating assistance on behalf of more than one operator may choose to separate operating assistance funding at either the scope level or the activity level.

7. FORMAT FOR PLANNING ASSISTANCE. On page 4 of the code chart are the scope and activity codes for planning assistance. To select the scope the grant applicant must once again move from left to right, but this time selecting two digits from the first box, and one digit from the second box to obtain the scope.

- a. Planning Emphasis Areas. FTA and FHWA jointly develop a list of Planning Emphasis Areas along with the appropriate budget line item codes for those tasks. These codes may change from year to year; the current codes are provided below. The planning codes may be used, as appropriate, for planning activities under any FTA program, including the Metropolitan and Statewide Planning and Research Program (49 U.S.C. Sections 5303 and 5313(b)) and of the Urbanized Area Formula Program (49 U.S.C. Section 5307).

Technical Classifications:

Scope Level Code: 441-00 State Planning and Research  
10 University Research  
20 Human Resources

30 Training Fellowships  
60 Research & Development

Activity Level Code: Use appropriate code from specific program, as published in program circulars.

Scope Level Code: 442-00 (Metropolitan Planning Activities)

Activity level code:

- 44.21.00 Program Support and Administration
- 44.22.00 General Development and Comprehensive Planning
- 44.23.01 Long Range Transportation Planning-System Level
- 44.23.02 Long Range Transportation Planning-Project Level
- 44.24.00 Short Range Transportation Planning
- 44.25.00 Transportation Improvement Program
- 44.26.XX Planning Emphasis Areas - (See Activity Code chart).
- 44.27.00 Other Activities
- 44.28.00 Highway Planning

- b. Consolidated Planning Grant Program. During FY 1997, FTA and FHWA developed a Consolidated Planning Grant Program (CPG) under which states could apply through FTA's electronic award and management system for all planning funds allocated to the state under Sections 5303 and 5313 of Title 49 U.S.C as well as funds allocated under Title 23 Highway Planning funds that are used for general transportation planning. This latter category includes Metropolitan Planning funds and the planning portion of State Planning and Research funds and can also include STP, CMAQ, NHS, and Funding Restoration funds. The various codes available for the Consolidated Planning Grant (CPG) are included at the bottom of page 4 of the Activity Line Item Chart. States have several options as to how they set up the CPG budget. An explanation of these options is included as EXHIBIT VII-8.
8. TRANSPORTATION ENHANCEMENTS. TEA-21 created a new category of eligible projects entitled transportation enhancements. Transportation enhancements are discussed in Chapter V. A minimum expenditure is required on transit enhancements in urbanized areas with populations 200,000 and above. That minimum is 1 percent of the area's Urbanized Area Formula Program apportionment. To track the obligation of this 1 percent amount as well as the types of projects for which the funds are spent, a new scope code, XX.90.00 and several activity line items have been developed. These can be found on page 3 of the chart.

9. ADDITIONAL BUDGET ITEM CODES. These codes are listed on pages five and six of the Activity Line Item Code Chart and are for use in preparing project budgets for various FTA programs.

a. CONTINGENCY PROJECTS - Urbanized Area Formula Program only:

Scope Level Code: 999-01, 02, etc.; see page six of chart.

Activity Level Code: Any of the codes on the code chart.

b. ADA/CAA-INCREASED FEDERAL SHARE PROJECTS:

Scope Level Code:

114-01 (for items not included in a specific bus purchase being funded under the grant)

AND

996-01 (for ALL increased Federal share items, whether associated with the actual bus purchase under scope 111-XX, or as a retrofit item--this scope appears at the end of the budget).

Activity Level Codes:

11.1X.XX (for itemizing specific vehicle components--Grant applicants should use same code as for rolling stock purchase under the 111-XX scope in the budget, but specify in the description what the items are, i.e., lifts, alternatively fueled engines, etc.)

Separate cost of components is included here rather than under the 111-XX scope.

11.42.43 (for exclusive ADA equipment--retrofit project)

11.42.44 (for exclusive CAA equipment--retrofit project)

If a grant applicant is choosing to use the blended 83 percent Federal share for a bus purchase rather than the 90 percent funding for incremental cost items, the 996 activity level code used is the same as the specific bus line item code and there is no need to describe specific incremental cost components.

c. Intelligent Transportation Systems (ITS) Projects. New "non-add" scope codes have been developed to track the incremental cost of the Intelligent Transportation System (ITS) technologies. These are to be used in the same manner as other non-add codes are used for ADA and CAA items.

993-00 ITS Fleet Management

994-00 ITS Electronic Fare Collection

995-00 ITS Traveler Information

Each of these codes should be used in conjunction with the standard activity line items. For example, to capture the incremental cost of ITS type electronic fare collection equipment on a bus purchase, the 994-00 scope code along with the bus line item would be used and the incremental cost of the fare collection portion of the purchase price would be used.

Scope 994-00 ITS Electronic Fare Collection

Activity	Federal	Total
11.12.01 Purchase of Replacement 40-Ft Buses	\$20,000	\$25,000

10. THE APPROVED PROJECT BUDGET DOCUMENT. Approved Project Budgets are generated by the FTA electronic award and management system. The approval date appears in the upper righthand corner of the sample Approved Project Budget in EXHIBIT VII-7. This date will be affixed by FTA when the contents of the budget are formally approved. The FTA-designated Grant Number appears in the upper left, AN-90-X352-02. With respect to the final two digits, 02, FTA's grants database is designed to store grant information in the context of "amendments," beginning with amendment "00," so "02" indicates that this is the third increment of funding for the grant. The final two digits will increase, e.g., 00, 01, 02, 03, etc., if the grant is amended either to add Federal funds or to revise the scope. The first two letters, AN, indicate the state in which the grant is located ("Anystate"); the next two digits, 90, indicate that the grant is under the Urbanized Area Formula Program, and the next four digits, X352, indicate the sequence number for Urbanized Area Formula Program grants awarded within the state. Budget No.03 indicates this is the third approved budget for the grant.

Next, the first scope of work (e.g., 111-01 Bus - Rolling Stock) is defined. As in the earlier examples, each scope is followed by the specific details (activities) of how the scope will be accomplished (e.g., 11.12.40, Purchase associated capital maintenance items).

The reader should notice also the scope code 996 on the second page of the budget, indicating expenses relating to the Americans with Disabilities Act of 1990. Here also would be placed expenses related to the Clean Air Act Amendments of 1990. The costs of these activity items have already been included in the costs in the scopes above the 996 scope (see Scopes 111-01 and 114-01). The 996 scope information is a breakout to allow FTA to answer its own and Congressional questions about funds obligated at the higher Federal share.



The final section of the Approved Project Budget provides the UZA identification code number and the UZA name. The accounting classification codes refer to the fiscal year of appropriation (98 and 97); appropriation code (21 indicates formula grants, 61 would indicate flexible funds); the FTA program (90 = Urbanized Area Formula Program); Limitation code (91 = unrestricted Section 9 formula, AK would indicate STP funds); and type of Urbanized Area Formula Program funds (cash = 1; contract authority under trust fund would = 2). The FPC category means Financial Purpose Code. With respect to those codes pertaining to the Urbanized Area Formula Program, 00 represents capital projects; 02, planning projects; and 04, operating assistance.

If a grant is being financed for the first time, no dollar amounts will appear in the Previously Approved column. This column is used only when a grant is being amended, to reflect the original amount of a grant. Since FTA's grants database is designed to store grant information in the context of "amendments," beginning with amendment "00," even the initial increment of funding is designated in the next column, the Amendment Amount column. The Amendment Amount column in the initial case will be the same as the amount that appears in the Total column.

11. REGIONAL ASSISTANCE. Grant applicants should make contact with the appropriate FTA Regional Office for any assistance needed in preparing the project budget for an Urbanized Area Formula Program grant application.

APPROVED PROJECT BUDGET

GRANTEE : HARRISVILLE TRANSIT AUTHORITY  
HARRISVILLE, AN

Page 1 of 2

GRANT NO.: AN90X352-02

BUDGET NO.: 3

APPROVAL DATE: 05/05/98

SCOPE	FEDERAL AMOUNT	TOTAL AMOUNT
111-01 BUS - ROLLING STOCK QUANTITY : 6	....\$ 496,953	\$ 617,120
<b>ACTIVITY</b>		
11.12.40 PURCHASE ASSOCIATED CAPITAL MAINTENANCE ITEMS	\$ 266,656	\$ 333,320
11.13.15 PURCHASE PARATRANSIT VEHICLE W/LIFT FOR SERVICE EXPANSION QUANTITY : 6	\$ 188,057	\$ 231,000
<b>ACTIVITY</b>		
11.16.40 CAPITAL LEASE - TIRES	\$ 42,240	\$ 52,800
11.17.00 VEHICLE OVERHAUL (20% VEHICLE MAINTENANCE)	\$ 0	\$ 0
<b>SCOPE</b>		
114-01 BUS SUPPORT EQUIP/FACILITIES	....\$ 769,950	\$ 890,220
<b>ACTIVITY</b>		
11.42.20 PURCHASE SHOP EQUIPMENT	\$ 35,984	\$ 44,980
11.42.43 PURCHASE VOICE ENUNCIATORS FOR BUSES (90% ITEMS)	\$ 519,966	\$ 577,740
11.44.02 FACILITY RENOVATIONS	\$ 206,800	\$ 258,500
11.46.11 CAPITAL LEASE - SUPV VEHICLE	\$ 2,400	\$ 3,000
11.63.03 PURCHASE 5 TWO-WAY RADIOS FOR PARATRANSIT SERVICE	\$ 4,800	\$ 6,000
<b>SCOPE</b>		
117-00 BUS - OTHER CAPITAL ITEMS	....\$ 984,908	\$ 1,242,269
<b>ACTIVITY</b>		
11.7A.00 PREVENTIVE MAINTENANCE	\$ 984,908	\$ 1,242,269
<b>TOTAL CAPITAL</b>	.....\$ 2,251,811	\$ 2,749,609
<b>SCOPE</b>		
300-00 OPERATING ASSISTANCE	....\$ 96,402	\$ 3,405,800
<b>ACTIVITY</b>		
30.09.00 OPERATING ASSISTANCE FOR THE PERIOD 7/1/97-6/30/98	\$ 96,402	\$ 3,405,800

APPROVED PROJECT BUDGET (con't)

GRANTEE : HARRISVILLE TRANSIT AUTHORITY  
HARRISVILLE, AN

Page 2 of 2

GRANT NO.: AN90X352-02

BUDGET NO.: 3

APPROVAL DATE: 05/05/98

SCOPE	FEDERAL AMOUNT	TOTAL AMOUNT
411-01 PLANNING-TECH CLASSIFICATIONS .....	\$ 440,000	\$ 550,000

ACTIVITY			
41.17.00 CORRIDOR STUDY (CORRIDOR ONE)	\$	440,000	\$ 550,000

TOTAL .....	\$	2,788,213	\$ 6,705,409
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	TOTAL AMOUNT
ESTIMATED NET PROJECT-COST	\$ 6,705,409
FEDERAL SHARE	\$ 2,788,213
LOCAL SHARE	\$ 3,917,196

SCOPE			
996-00 ADA RELATED EXPENSES QUANTITY : 11	.....\$	387,530	\$ 410,311

ACTIVITY			
11.13.15 LIFT FOR PARATRANSIT VEHICLE QUANTITY : 6	\$	29,314	\$ 32,571
11.42.43 PURCHASE VOICE ENUNCIATORS QUANTITY : 5	\$	358,216	\$ 377,740

TOTAL CONTINGENCY .....	\$	387,530	\$ 410,311
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FUNDING UZA: 420890 FUNDING UZA NAME: HARRISVILLE, AN

ACCOUNTING CLASSIFICATION	FPC	DESCRIPTION		PREVIOUSLY APPROVED	AMENDMENT AMOUNT	TOTAL
98.21.90.91.1	00	FY1998, SEC 9 CAPITAL	\$	0 \$	1,027,903 \$	1,027,903
98.21.90.91.1	04	FY1998, SEC 9 OPERATING	\$	0 \$	96,402 \$	96,402
97.21.90.91.1	00	FY1997, SEC 9 CAPITAL	\$	511,087 \$	0 \$	511,087
97.21.90.91.1	02	FY1997, SEC 9 PLANNING	\$	440,000 \$	0 \$	440,000

FTA and FHWA  
Consolidated Planning Grant (CPG) Initiative  
Overview  
March 1998

The FTA and FHWA Administrators announced the Consolidated Planning Grant Initiative on October 1, 1996 and in fiscal year 1997, FTA and FHWA began offering states the option of participating in a pilot Consolidated Planning Grant (CPG) program for FTA's Metropolitan (Section 5303) and Statewide (Section 5313(b)) programs and FHWA's Metropolitan Planning (PL) and State Planning and Research (SPR) programs. So far eleven states are participating in the pilot program. At least two additional states are expected to join the program in FY 1998. In FY 1997, more than \$33.9 million was obligated for the CPG pilot states. The total obligations are approximately 2/3 FHWA planning funds and 1/3 FTA planning funds. Grants are made electronically using FTA's state-of-the-art electronic award and management system. Completed applications can be approved within 24 hours. The goals in developing the CPG pilot were to give states and metropolitan planning organizations (MPOs) more control over their planning resources with a combination of broader financial controls and greater flexibility in the management of their planning activities, provide uniformity in the delivery of Federal funds, and streamline and simplify the Federal review and oversight process for the planning program.

To further reduce paperwork for our customers, the CPG pilot offers the states two options for carrying the CPGs over from year to year. The first option is to treat the CPG much as FHWA grants are treated currently, that is, as basically annual grants with a yearly close-out, deobligation and reobligation cycle. The second option is to treat the CPG more like an FTA grant, but with even greater flexibility. Under this second option, the CPG grant would stay open for a multi-year period to be determined by the state (and MPO, jointly, for Metropolitan Planning funds) with the approval of the Federal Government. New apportionments will be added by a grant amendment as the funds become available. So far, over one-half of the current CPG grantees plan to follow this second option.

The FTA is exploring with FHWA the potential for extending FTA's preaward authority to the entire CPG program, thereby allowing states to continue their planning program activities from year to year with the assurance (granted to all FTA grantees in its annual Federal Register Notice on Apportionments) that eligible costs can later be converted to a regularly funded Federal project without the need for prior approval or authorization from the granting agency.

Federal Transit Administration  
Scope & Activity Line Item Codes

Effective 10/1/98

GRANTS MANAGEMENT INFORMATION SYSTEM
SCOPE CODE CHART
SCOPE CODES

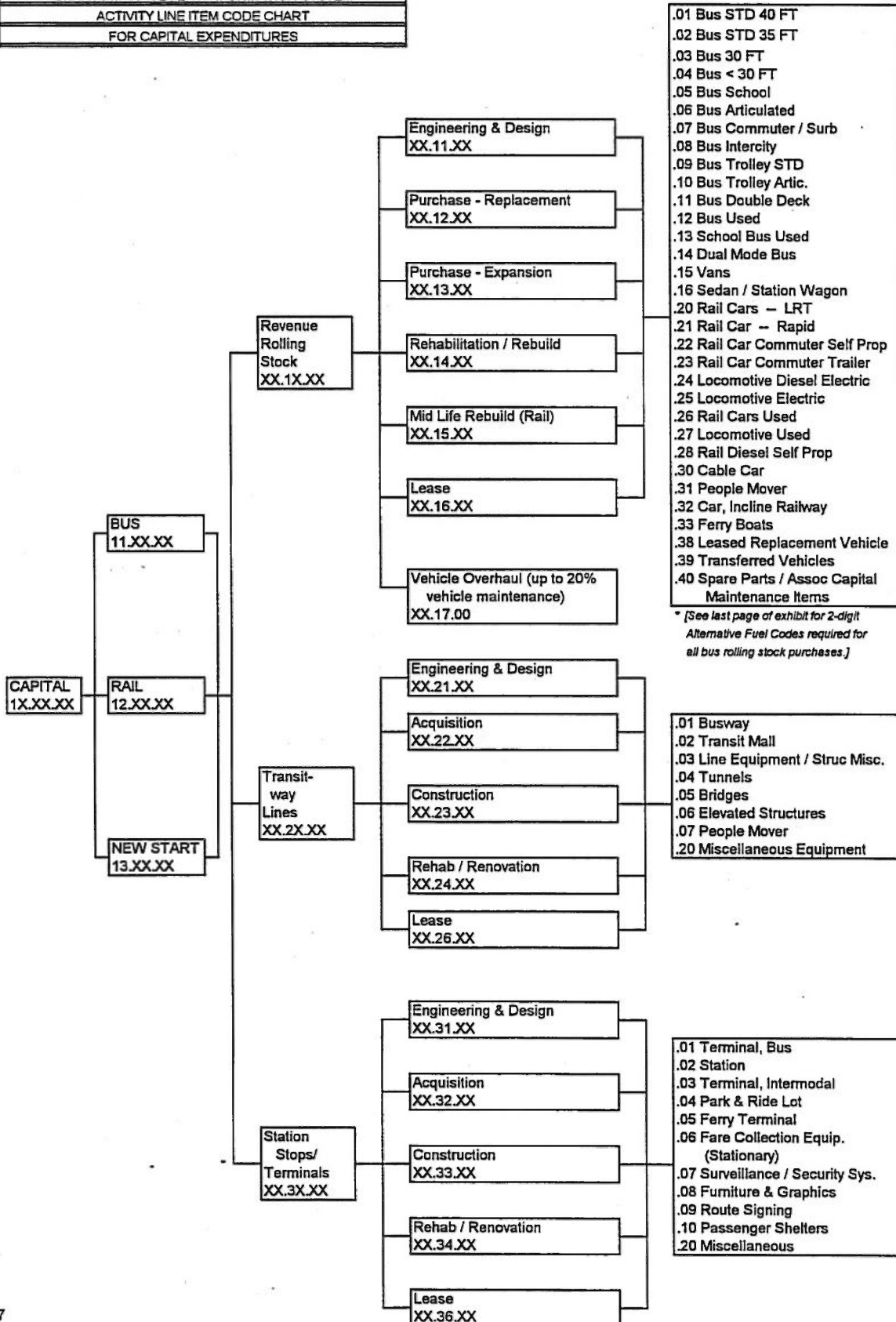
Category	Description	Code	Sub-Code	Special Instructions	
Capital	Bus Rolling Stock	111-00			
	Bus Transitways / Lines	112-00			
	Bus Station Stops & Terminals	113-00			
	Bus Support Equip / Facilities	114-00			
	Bus Electrification / Power Dist.	115-00			
	Bus Signal & Communication Equip	116-00			
	Bus Other Capital Items	117-00			
	Bus Transit Enhancements	119-00			
	Rail Rolling Stock	121-00			
	Rail Transitways / Lines	122-00			
	Rail Station Stops & Terminals	123-00			
	Rail Support Equip / Facilities	124-00			
	Rail Electrification / Power Dist.	125-00			
	Rail Signal & Communication Equip	126-00			
	Rail Other Capital Items	127-00			
	Rail Transit Enhancements	129-00			
	New Start Rolling Stock	131-00			
	New Start Transitways / Lines	132-00			
	New Start Stops & Terminals	133-00			
	New Start Support Equip / Facilities	134-00			
	New Start Electrification / Power Dist.	135-00			
	New Start Signal & Comm. Equip	136-00			
	New Start Other Capital Items	137-00			
	New Start Transit Enhancements	139-00			
	Operating	Operating Assistance	300-00		
	Planning	State Planning & Research	441-00		
		University Research		441-10	Use 70.XX.XX ALIs
		Human Resources		441-20	Use 20.XX.XX ALIs
		Training Fellowship		441-30	Use 60.XX.XX ALIs
		Research & Development		441-60	Use 65.XX.XX ALIs
		Metropolitan Planning		441-80	Use 44.2X.XX ALIs
		Metropolitan Planning	442-00		
	Consolidated Planning Grants	443-00			
Special Categories for Sec 5311	Other Program Costs	600-00		Option: Combine Scopes 300, 610, 620, & 630 into a single scope code	
	State Administration	610-00		Use ALI code 11.80.00	
	Project Administration	620-00		Use ALI code 11.78.00	
	Program Reserve	630-00		Use ALI code 11.73.00	
	Intercity Bus Transportation	634-00		Use Capital, Operating, or Pinng ALIs	
	RTAP	635-00		Use 43.5X.XX ALIs	
Sec 5311 budgets may also use Capital, Operating, or Planning Scope codes in addition to the special scopes listed listed in this section.					
Non-add Codes	Fleet Management	993-00			
	Electronic Fare	994-00			
	Traveler Information	995-00			
	ADA / CAA Increased Federal Share	996-00			
	Contingency Projects	999-00			



Federal Transit Administration  
Scope & Activity Line Item Codes

Effective 10/1/88

GRANTS MANAGEMENT INFORMATION SYSTEM
ACTIVITY LINE ITEM CODE CHART
FOR CAPITAL EXPENDITURES

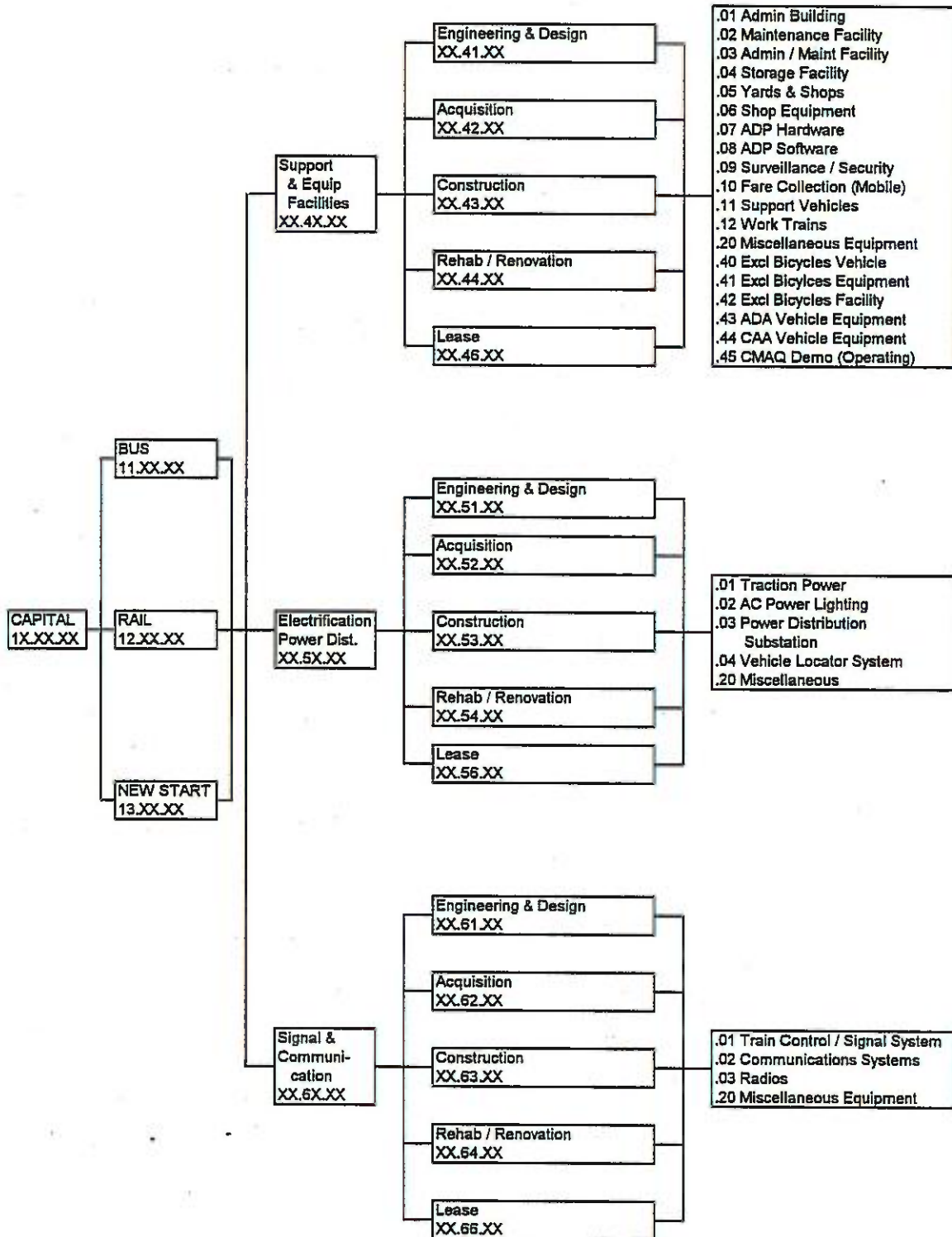


\* (See last page of exhibit for 2-digit Alternative Fuel Codes required for all bus rolling stock purchases.)

Federal Transit Administration  
Scope & Activity Line Item Codes

Effective 10/1/98

GRANTS MANAGEMENT INFORMATION SYSTEM
ACTIVITY LINE ITEM CODE CHART
FOR CAPITAL EXPENDITURES

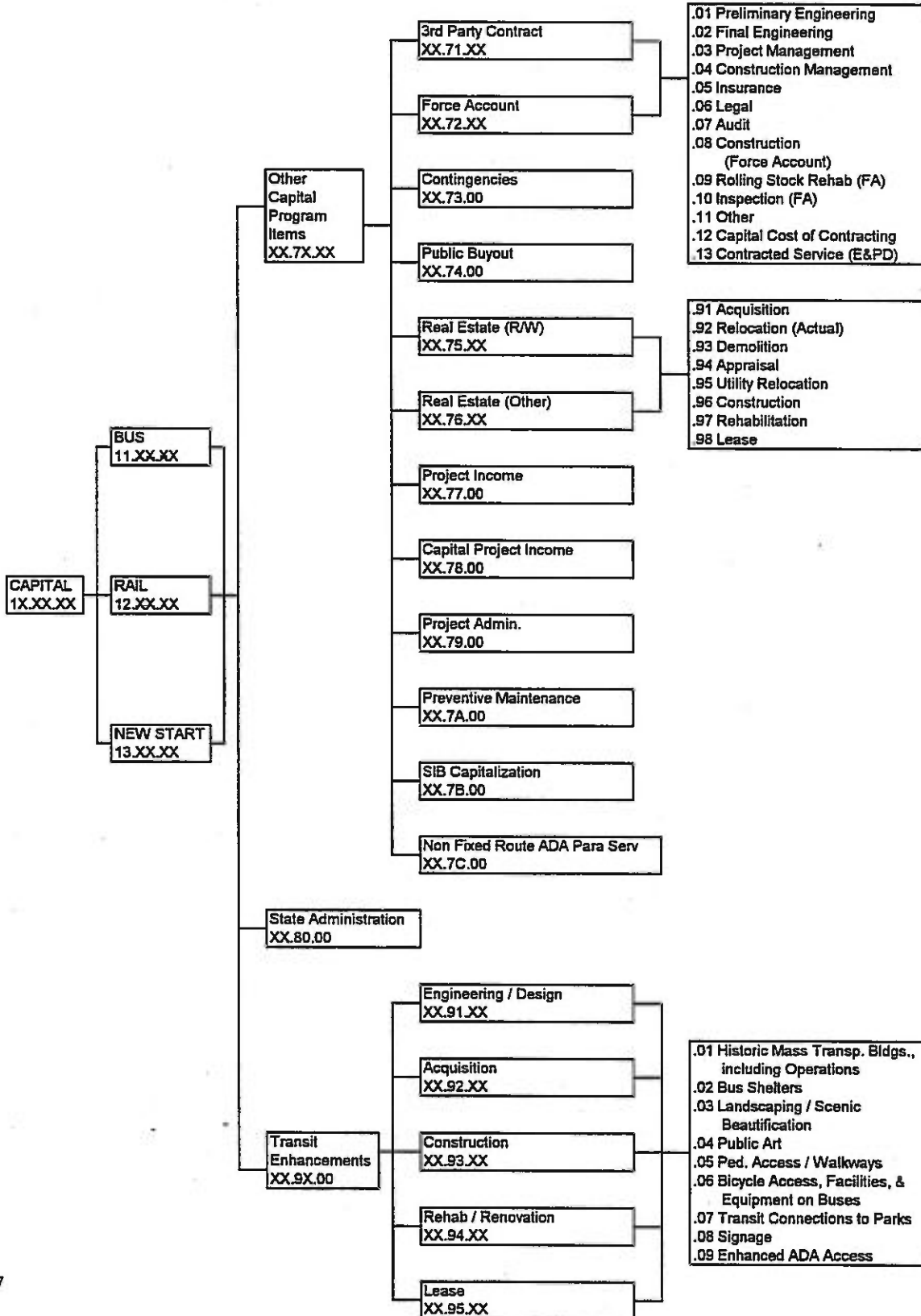




**Federal Transit Administration  
Scope & Activity Line Item Codes**

Effective 10/1/98

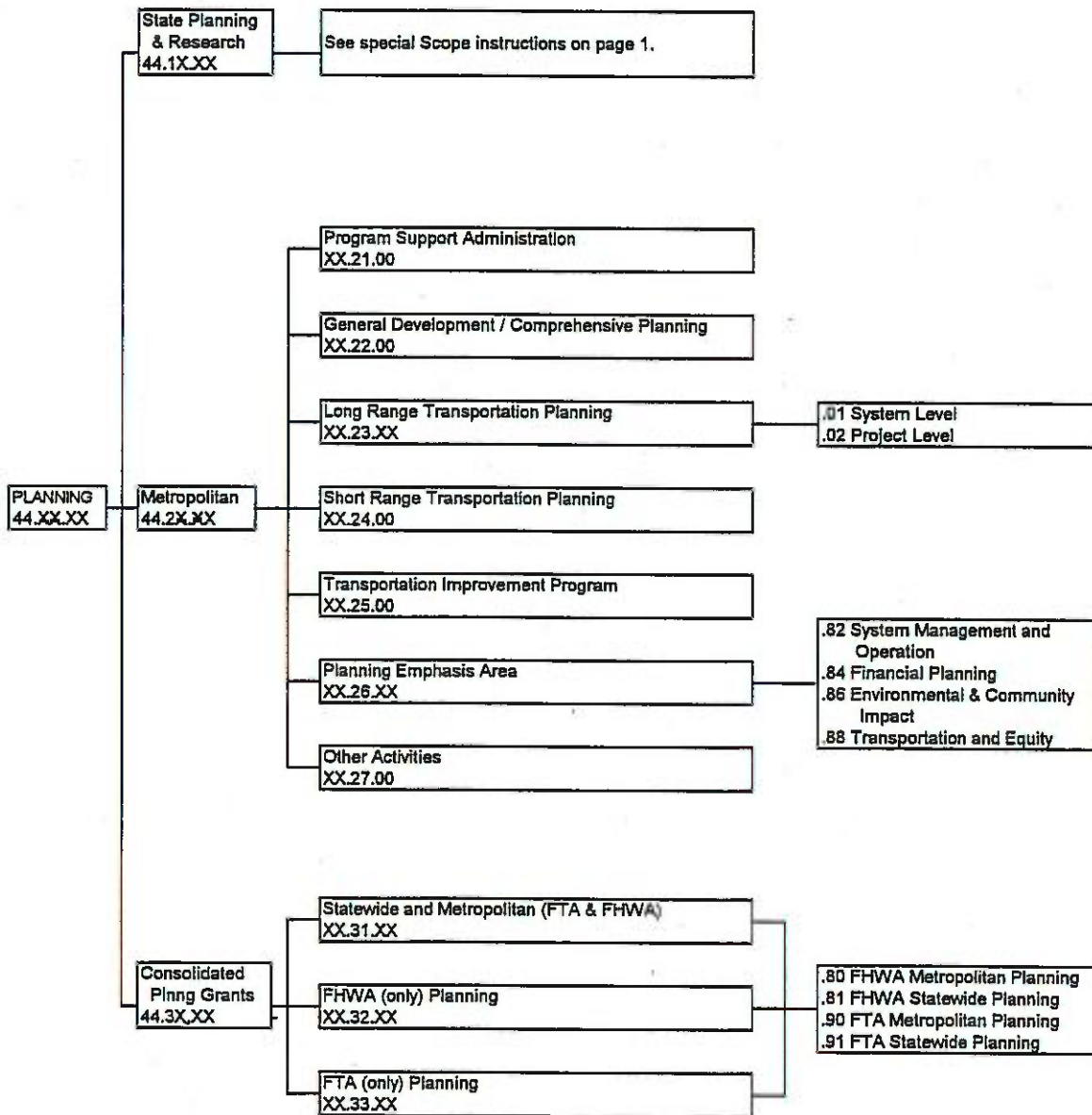
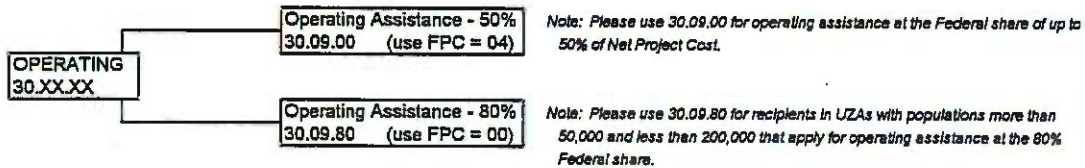
GRANTS MANAGEMENT INFORMATION SYSTEM
ACTIVITY LINE ITEM CODE CHART
FOR CAPITAL EXPENDITURES



**Federal Transit Administration  
Scope & Activity Line Item Codes**

Effective 10/1/98

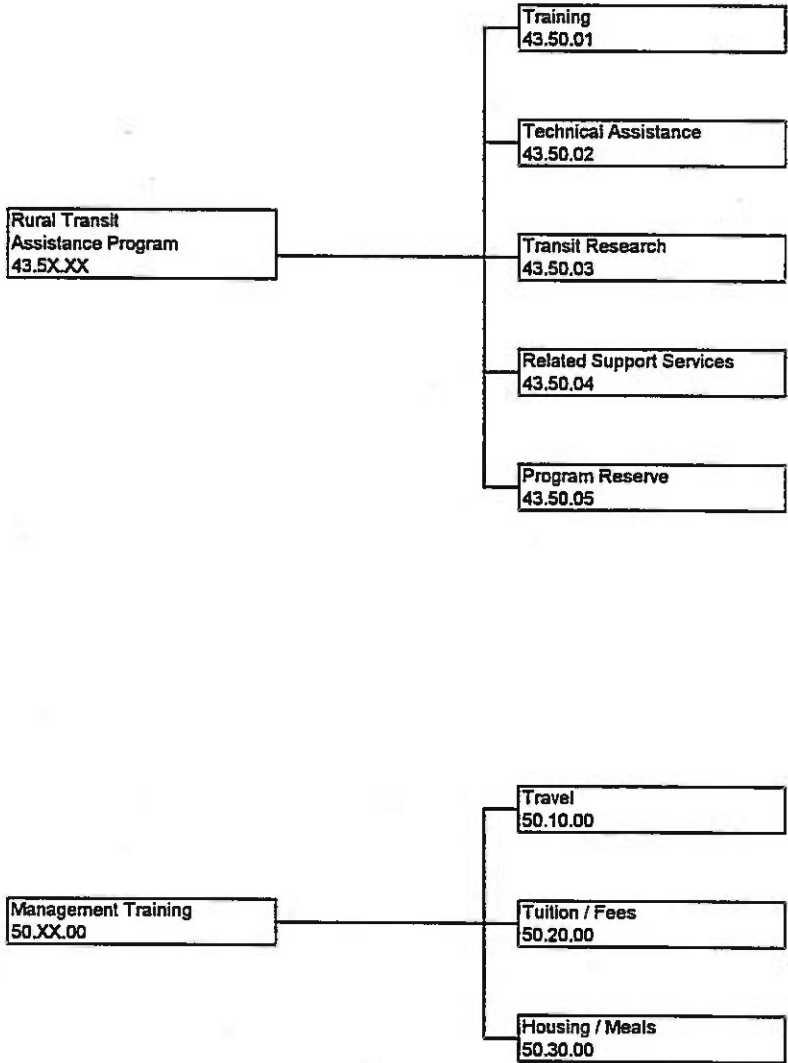
GRANTS MANAGEMENT INFORMATION SYSTEM
ACTIVITY LINE ITEM CODE CHART
FOR OPERATING AND PLANNING EXPENDITURES



**Federal Transit Administration  
Scope & Activity Line Item Codes**

*Effective 10/1/98*

GRANTS MANAGEMENT INFORMATION SYSTEM
ACTIVITY LINE ITEM CODE CHART
FOR RTAP AND MANAGEMENT TRAINING



**Federal Transit Administration  
Scope & Activity Line Item Codes**

Effective 10/1/98

GRANTS MANAGEMENT INFORMATION SYSTEM
ACTIVITY LINE ITEM CODE CHART
FOR RESEARCH AND OTHER EXPENDITURES

Research Projects  
55.XX.XX

- .10.00 Personnel
- .13.00 Clerical
- .14.00 Managerial, Technical, & Professional
- .15.00 Construction Work
- .19.00 Other
- .20.00 Travel
- .30.00 Fringe Benefits
- .40.00 Equipment
- .41.00 ADP Purchase, Lease, or Rental
- .42.00 Material & Equip-Purchase / Lease / Rent
- .43.00 Equipment Design or Manufacture
- .49.00 Supplies
- .50.00 Contractual
- .51.00 Service Improvements
- .52.00 Consultant Services
- .53.00 ADP Services
- .54.00 Other
- .56.00 Construction
- .61.00 FAC; Renov; Purchase, Lease, Rental
- .62.00 Construction Work
- .70.00 Other
- .71.00 Administrative Costs
- .72.00 Service Operations
- .73.00 Contingencies
- .74.00 Other Project Costs
- .75.00 Diversion Payments
- .76.00 Profit or Fee
- .80.00 Indirect Costs
- .81.00 Overhead
- .82.00 General & Administrative
- .90.00 Income
- .91.00 Project Income
- .92.00 Investment Income
- .93.00 Proceeds, Sale of Non-Expen Pro
- .94.00 Farebox Revenue

University Research  
70.XX.XX

- .10.00 Faculty Salaries & Wages
- .13.00 Secretarial & Clerical Costs
- .20.00 Employee Benefits
- .30.00 Travel
- .44.00 Automatic Data Processing Services
- .49.00 Services
- .50.00 Expendable Supplies & Material
- .51.00 Seminar Support
- .52.00 Student Stipend / Tuition
- .53.00 Publishing Costs
- .65.00 University Overhead
- .80.01 Student Salaries
- .80.02 Other Direct Costs
- .80.03 Other Indirect Costs
- .90.00 Cost Share or Grantee Local Share

Non-Add Scope Codes  
99X-nn

- 993-nn ITS - Fleet Management
- 994-nn ITS - Electronic Fare
- 995-nn ITS - Traveler Information
- 996-nn ADA / CAA Increased Federal Share  
(i.e. Alternate Federal Share matches such as 90/10 and 83/17)
- 999-nn Contingency Projects

**Federal Transit Administration  
Scope & Activity Line Item Codes**

*Effective 10/1/98*

TRANSIT MANAGEMENT INFORMATION SYSTEM
ALTERNATIVE FUEL TYPE CODES
FOR FTA/MTA/RTA/STB

DF - DIESEL FUEL
DP - DIESEL (PARTICULATE TRAP)
CN - COMPRESSED NATURAL GAS
LN - LIQUEFIED NATURAL GAS
LP - LIQUEFIED PETROLEUM GAS
MT - METHANOL
ET - ETHANOL
EP - ELECTRIC PROPULSION
GA - GASOLINE
BF - BUNKER FUEL
OR - OTHER



CHAPTER VIII

REGIONAL OFFICES

**Region 1 - Boston**

Transportation Systems Center	Tel. No. 617 494-2055
Kendall Square	TDD No. 617 494-3154*
55 Broadway, Suite 920	Fax No. 617- 494-2865
Cambridge, MA.	
02142-1093	

Areas served: Maine, New  
Hampshire, Vermont,  
Massachusetts, Rhode Island, and  
Connecticut

**Region 2 - New York**

1 Bowling Green	Tel. No. 212-264-8162
New York, NY 10274	TDD No. 212 264-8162*
(beginning fall 1998); currently	Fax No. 212-264-8973
26 Federal Plaza, Suite 2940	
New York, NY	
10278-0194	

Areas served: New York, New  
Jersey, and U.S. Virgin Islands

<b>New York City Metropolitan Office</b>	1 Bowling Green New York, NY 10274	212 466-1935
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<b><u>Region 3 - Philadelphia</u></b>	1760 Market Street Suite 500 Philadelphia, PA 19103-4124	Tel. No. 215-656-7100 TDD No. 215 656-7269* Fax No. 215-656-7260
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\* Telecommunication device for the deaf.

Areas served: Pennsylvania,  
Virginia, Delaware, West  
Virginia, Maryland, and District  
of Columbia

**Philadelphia  
Metropolitan Office**

1760 Market Street  
Suite 510  
Philadelphia, PA  
19103-4124

Tel. No. 215 - 656-7070

**Region 4 - Atlanta**

61 Forsyth Street, S.W.  
Suite 17T50  
Atlanta, GA.  
30303-8917

Tel. No. 404-562-3500  
TDD No. 404-562-3481\*  
Fax No. 404-562-3505

Areas served: North Carolina,  
Kentucky, Tennessee, South  
Carolina, Alabama, Georgia,  
Florida, Mississippi, and Puerto  
Rico

**Region 5 - Chicago**

200 W. Adams Street  
Suite 2410  
Chicago, IL  
60606-5232

Tel. No. 312-353-2789  
TDD No. 312-353-1653\*  
Fax No. 312-886-0351

Areas served: Illinois, Ohio,  
Minnesota, Wisconsin,  
Indiana, and Michigan

**Chicago Metropolitan  
Office**

200 W. Adams Street  
Suite 2410, 24th Floor  
Chicago, IL  
60606-5232

Tel. No. 312-886-1616

\* Telecommunication device for the deaf.



**Region 6 - Ft. Worth**

819 Taylor Street  
Room 8A36  
Ft. Worth, TX  
76012

Tel. No. 817-978-0550  
TDD No. 817-978-0550 and -9552\*  
Fax No. 817-978-0575

Areas served: Texas, Oklahoma,  
Arkansas, Louisiana, and New  
Mexico

**Region 7 - Kansas City**

6301 Rockhill Road  
Suite 303  
Kansas City, MO  
64131-1117

Tel. No. 816-523-0204  
TDD No. 816-523-2150\*  
Fax No. 816-523-0927

Areas Served: Iowa, Kansas,  
Nebraska, and Missouri

**Region 8 - Denver**

Columbine Place  
216 16th St., Suite 650  
Denver, CO  
80202-5120

Tel. No. 303-844-3242  
TDD No. 303-844-5526\*  
Fax No. 303-844-4217

Areas served: Colorado,  
Montana, North Dakota, South  
Dakota, Utah, and Wyoming

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\* Telecommunication device for the deaf.

**Region 9 - San Francisco**

201 Mission Street  
Room 2210  
San Francisco, CA  
94105-1800

Tel. No. 415-744-3133  
TDD No. 415-744-3113\*  
Fax No. 415-744-2726

Areas served: California,  
Arizona, Nevada, Hawaii, Guam,  
American Samoa, and the  
Northern Mariana Islands

**Los Angeles  
Metropolitan Office**

201 North Figueroa  
Suite 1460  
Los Angeles, CA  
90012

Tel. No. 213-202-3950

Fax No. 213-202-3969

**Region 10 - Seattle**

Jackson Federal Building  
915 Second Avenue, Suite 3142  
Seattle, WA  
98174-1002

Tel. No. 206-220-7954  
TDD No. 206-220-7961\*  
Fax. No. 206-220-7959

Areas served: Washington,  
Oregon, Idaho, and Alaska

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\* Telecommunication device for the deaf.

APPENDIX A

TRANSPORTATION PLANNING PROCESS

1. **BACKGROUND.** The codification of the laws authorizing the Federal transit program<sup>1</sup> begins by expressing the congressional finding that "it is in the interest of the United States to encourage and promote the development of transportation systems that embrace various modes of transportation and efficiently maximize mobility of individuals and goods in and through urbanized areas and minimize transportation-related fuel consumption and air pollution" (49 U.S.C. Section 5301(a)). To implement this policy, each metropolitan planning organization (MPO), in cooperation with the state and transit operators must develop transportation plans and programs for its urbanized areas within the state (49 U.S.C. Section 5303(a)). Further, the plans and programs must provide for integrated management, and operation of transportation systems and facilities that will function as an integrated intermodal transportation system for the metropolitan area and as an integral part of an intermodal transportation system for the state and the United States. Both the Federal Transit Administration (FTA) and the Federal Highway Administration (FHWA) impose transportation planning requirements as a condition of Federal assistance for most mass transportation and highway projects. Within 49 U.S.C. chapter 53, transportation planning requirements are set forth at 49 U.S.C. Sections 5303 through 5306.

To achieve consistency in their planning requirements, FTA and FHWA have issued various joint regulations. The following text of this circular is a synopsis of part of the following two regulations:

- a. Joint FHWA/FTA regulations, "Planning Assistance and Standards," 23 C.F.R. Part 450 and 49 C.F.R. Part 613 (specifically Subpart B "Statewide Transportation Planning," and Subpart C "Metropolitan Transportation Planning and Programming").
  - b. Joint FHWA/FTA regulations, "Management and Monitoring Systems," 23 C.F.R. Part 500 and 49 C.F.R. Part 614.
2. **GRANT APPLICANT'S ROLE.** A grant applicant for Urbanized Area Formula Program assistance will need to be an active participant in the metropolitan planning process in order to be certain that the transit projects for which assistance is desired are properly evaluated for inclusion within the metropolitan transportation improvement program (TIP) and the statewide transportation improvement program (STIP). (As used in this appendix and the joint FHWA/FTA regulations, the TIP always refers to a metropolitan transportation improvement program.) A potential grant applicant for Urbanized Area Formula Program assistance is therefore encouraged to participate in the local MPO's planning activities, specifically in both the development of the metropolitan transportation plan (referred to here as the "metropolitan long-range transportation plan") and the development of the TIP to

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<sup>1</sup> 49 U. S. Code chapter 53 consists of the former Federal Transit Act and related laws.

ensure that proposed projects are adequately considered for inclusion in the TIP and STIP. The metropolitan long-range transportation plan is defined in 23 C.F.R. Section 450.104.

3. LONG-RANGE TRANSPORTATION PLANNING.

- a. Metropolitan. Each MPO is required to develop and update periodically a metropolitan long-range transportation plan covering a forecast period of at least 20 years. New start projects and other major facilities projects may result from corridor or other capital studies carried out as part of the metropolitan long-range transportation plan. (See 49 U.S.C. Section 5303(f) and 23 C.F.R. Section 450.322.)
- b. State. Each state is required to develop and update periodically a statewide transportation plan, referred to here as the "statewide long-range transportation plan" because this plan also must cover a forecast period of at least 20 years. The state must integrate each metropolitan long-range transportation plan submitted by the state's MPOs into a consistent statewide long-range transportation plan. (See 23 C.F.R. Section 450.214.)

4. METROPOLITAN LONG-RANGE TRANSPORTATION PLANNING IN AN AIR QUALITY "NONATTAINMENT AREA." Each MPO serving an area designated by the Environmental Protection Agency as a nonattainment or maintenance area for purposes of the Clean Air Act, as amended, due to transportation-related pollutants (such as ozone or carbon monoxide), must coordinate development of its metropolitan long-range transportation plan with development of the state (air quality) implementation plan (SIP) (23 C.F.R. Section 450.322(d) and 23 C.F.R. Part 51). Before the MPO approves the metropolitan long-range transportation plan, the MPO must first provide a reasonable opportunity for interested parties to comment on that plan, including an opportunity for at least one formal public meeting annually to review planning assumptions and plan development for each nonattainment transportation management area (TMA) (23 C.F.R. Section 450.322(c)). FTA and FHWA then must review and evaluate the MPO's "conformity finding" for the metropolitan long-range transportation plan, i.e., a finding that the metropolitan long-range transportation plan conforms with the SIP. Other air quality requirements applicable to a TMA in a nonattainment or maintenance area are discussed in paragraph 8 of this appendix.

5. UNIFIED PLANNING WORK PROGRAM. Unless FHWA and FTA permit an MPO to submit a simplified statement of work describing the planning activities for which it seeks Federal assistance, the MPO must develop a Unified Planning Work Program (UPWP), which addresses transportation planning activities to be undertaken in the next one or two-year period (23 C.F.R. Section 450.314). FTA makes Metropolitan Planning Program grants to states, which in turn transfer financial assistance to MPOs to support the costs of developing UPWPs. (See 49 U.S.C. Section 5303(g).) FHWA, through FHWA's counterpart planning program (the "PL" Program), may also make grants to states, which in turn transfer financial assistance to MPOs to support the costs of developing UPWPs (23 C.F.R. Section 134). Both FTA and FHWA grant assistance may be used for transportation-related planning and this assistance is not limited to mode-specific planning activities. A state may also use some of its State Planning and Research Program assistance

to provide financial assistance to MPOs to supplement the costs of preparing UPWPs. (See 49 U.S.C. Section 5313(b).) Note: Under a pilot program being conducted jointly by FTA and FHWA, funds from both FTA's and FHWA's metropolitan and statewide programs, as well as funds from certain other Title 23 programs, can be combined into a single, consolidated grant to the state.

6. THE TRANSPORTATION IMPROVEMENT PROGRAM. The MPO, in cooperation with the state and affected transit operators, must develop a TIP for the metropolitan planning area and provide interested parties an opportunity to comment on the proposed TIP. The TIP must be updated at least once every two years and must be approved by the MPO and the Governor.

Projects proposed in the TIP for Federal funding must be consistent with the area's metropolitan long-range transportation plan and with discrete studies supporting, for example, bus expansion or new maintenance facilities. The TIP may include only projects or identified segments or phases of a project for which the entire amount of Federal and non-Federal funding can reasonably be anticipated to be available within the time period contemplated for completion of the project. Before the MPO and the Governor approve the TIP, the MPO also must first provide adequate public notice and an opportunity for interested parties to review and comment on the proposed TIP.

Particularly important to FTA is the TIP's list of projects, including project segments and phases, intended to be carried out within the 3-year period, and the financial plan demonstrating how the TIP can be implemented, indicating resources from public and private sources expected to be made available for the project. Those projects, including segments and phases, must be listed by year of funding.

Because each TIP must be financially constrained, projects identified in Federal authorizing and annual appropriations legislation (funding committed to the area) may be included in the first year of the TIP, provided all other program requirements are met. The total Federal share of projects included in the second and third year of a TIP may not exceed the levels of funds committed, or reasonably expected to be available, to the metropolitan area.

Project selection for projects involving Federal participation must be made from an approved TIP by the MPO in consultation with the state in areas with population of more than 200,000, as well as in other metropolitan areas designated as TMA's. For an area with a population of less than 200,000 and not designated a TMA, project selection is carried out by the state and/or the transit operator in consultation with the MPO. Documentation for project selection must be forwarded to FTA.

FTA provides assistance only for those projects included in the TIP and/or STIP (see paragraph below) applicable to the fiscal year in which the grant applicant requests assistance. If, for any reason, FTA does not grant available assistance for a specific project as requested, FTA does not consider the project as

remaining eligible, absent rare circumstances. Thus, if a request for that assistance is re-submitted in a later fiscal year, the TIP and/or STIP must include that project on the list for the later year, reflecting the fact that available assistance not granted in the past as requested continues to be desired.

7. STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM. A statewide transportation improvement program (STIP) must be prepared and approved by FHWA and FTA before Federal assistance authorized by 49 U.S.C. chapter 53 or Title 23 U.S.C.<sup>2</sup> may be awarded. Among other things, the STIP consists of unmodified TIPs, approved by both the MPO and Governor. TIPs for nonattainment and maintenance areas, however, may not be included in the STIP until the requisite air quality conformity findings are made by FTA and FHWA. A multi-year STIP should be developed with proposed projects and funding sources identified for each year. Transit projects must be selected in accordance with requirements of the specific funding programs. Each project in the grant application must be included in Year 1 of the approved STIP before FTA may award a grant for that project, or be moved from Years 2 and 3 into Year 1 using project selection procedures. If the STIP is used for two years, then each project must be included, as appropriate, in years 1 or 2.
8. TRANSPORTATION MANAGEMENT AREAS. The Secretary of Transportation is required to designate each area with more than 200,000 in population as a TMA. Upon request by the Governor and the MPO, the Secretary of Transportation may also designate an area with 200,000 or less population as a TMA (49 U.S.C. Section 5305(a)). Within a TMA, the metropolitan long-range transportation plans and TIPs must be based on a continuing and comprehensive transportation planning process carried out by the MPO in cooperation with the state and affected transit operators.

For a TMA classified by EPA as a nonattainment or maintenance area for purposes of the Clean Air Act, as amended, Federal assistance funds may not be included in the TIP or STIP for any transit project that will result in a significant increase in carrying capacity for single occupant vehicles unless the project is part of an approved congestion management system (see discussion below).

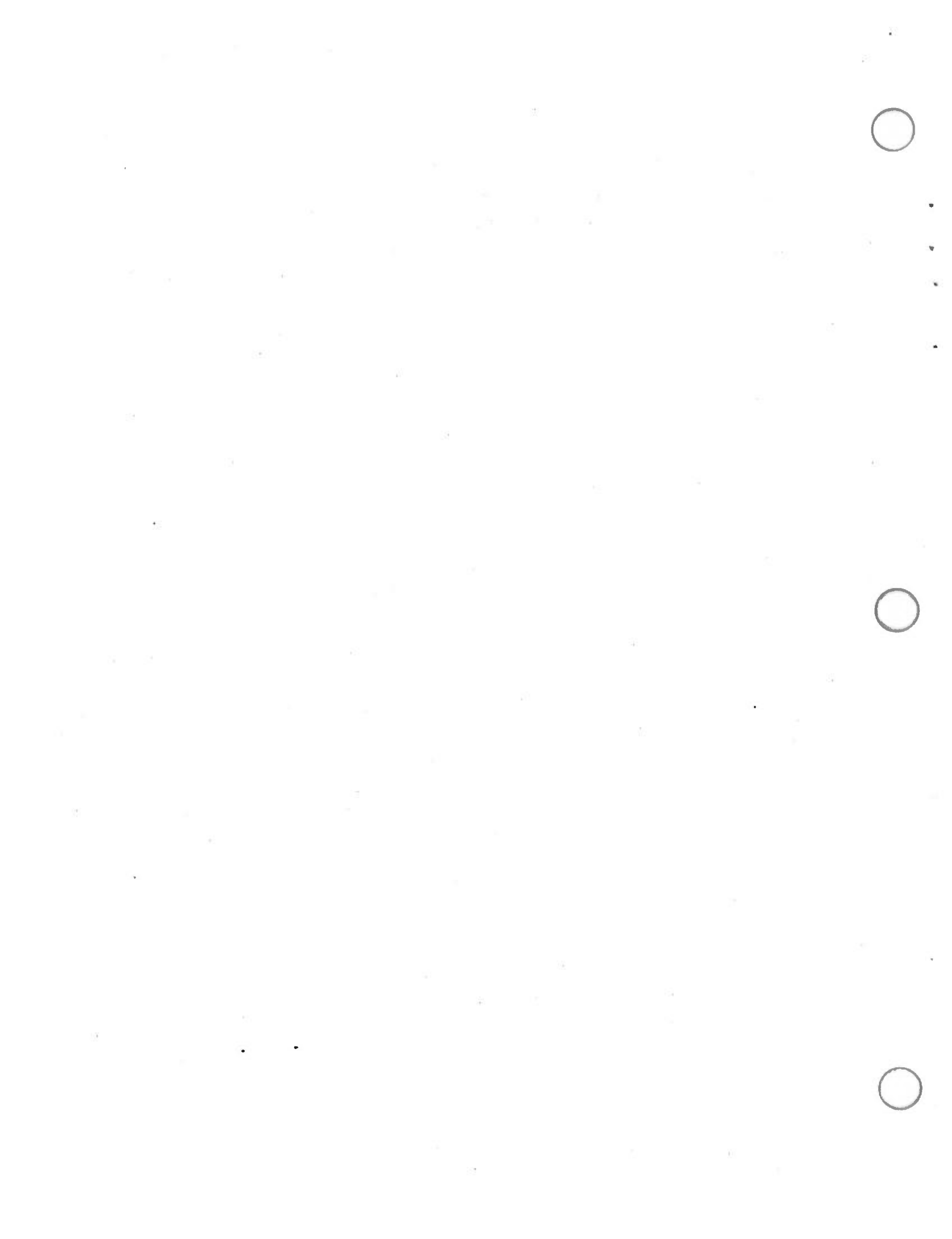
The projects within the planning area boundaries of a TMA for which Federal assistance is sought must be selected by the MPO in consultation with the state and any affected transit operator and in conformance with the TIP and that TIP's priorities for the applicable funding sources.

To the extent FTA considers appropriate, simplified planning procedures producing metropolitan long-range transportation plans and TIPs may be developed for an urbanized area not designated as a TMA (23 C.F.R. Section 450.316(c)). All projects or project groupings in an approved TIP must be included unmodified in the STIP. FTA and FHWA then approve the STIP before awarding Federal assistance.

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<sup>2</sup> Title 23 U.S.C. consists of the codified Federal highway and surface transportation laws.

9. CONGESTION MANAGEMENT SYSTEM. The transportation planning process for a TMA must include a congestion management system that provides for the use of travel demand reduction and operational management strategies to achieve effective management of new and existing transportation facilities (49 U.S.C. Section 5305(c)).





APPENDIX B

APPORTIONMENT FORMULA

Under the provisions of TEA-21, for fiscal years 1999 through 2003, the distribution of the total funds available for formula grants is as follows:

- A. \$4,849,950 to the Alaska Railroad (Section 5307)
- B. \$50,000,000 to the Clean Fuels Formula Program (Section 5308)

Of the remaining amount:

- C. 91.23% to the Urbanized Area Formula Program (Section 5307)
- D. 6.37% to the Nonurbanized Area Formula Program (Section 5311)
- E. 2.4% to the Elderly and Persons with Disabilities Program (Section 5310)

Funds available for the Urbanized Area Formula Program will be apportioned among two basic categories as follows:

- A. 90.68% to urbanized areas 200,000 and over in population
- B. 9.32% to urbanized areas under 200,000 in population

**EXHIBIT B-1**

**Allocation Formula for Urbanized Area Formula Program  
(for Fiscal Years 1998-2003)**

(UZA) Population

<200,000 9.32% (Apportioned to Governors)

50%-population

50%-population x density

[density = inhabitants/square mile]

≥200,000 90.68% (Apportioned to Urbanized Areas)

33.29% (Fixed Guideway Tier\*)

95.61% [at least 0.75% of these funds for each UZA  
with commuter rail & pop. ≥ 750,000]

60%-fixed guideway revenue vehicle miles

40%-fixed guideway route miles

4.39% ("Incentive" Portion Tier)

[at least 0.75% of these funds for each UZA  
with commuter rail & pop. ≥750,000]

fixed guideway passenger miles x

fixed guideway passenger miles/operating cost

66.71% ("Bus" Tier)

90.8%

73.39% for UZA's with pop. ≥1,000,000

50%-bus revenue vehicle miles

25%-population

25%-population x density

26.61% for UZA's with pop. <1,000,000

50%-bus revenue vehicle miles

25%-population

25%-population x density

9.2% ("Incentive" Portion of Tier)

- bus passenger miles x bus passenger  
miles/operating cost

\* Includes all fixed guideway modes, such as heavy rail, commuter rail, light rail, trolleybus, serial tramway, inclined plane, cable car, and automated guideway transit. Also includes ferryboats, exclusive busways and HOV lanes.

## APPENDIX C

### NEW START DEVELOPMENT PROCESS

1. INTRODUCTION. A grant applicant may apply for Urbanized Area Formula Program funds to use for any phase of new start planning, engineering design, and construction. Where the urban formula funds will be used in conjunction with Capital Program new start funds (authorized by 49 U.S.C. Section 5309), Capital Program requirements apply as well.

New start planning and project development involves three stages prior to actual construction, as described below.

2. PLANNING. Planning refers to the continuing, cooperative, and comprehensive urban transportation planning process that exists in each urbanized area of the country. The process is carried out by the designated Metropolitan Planning Organization (MPO) in cooperation with the state government and operators of publicly owned transit services. Regulations governing the metropolitan planning process can be found at 49 C.F.R. Part 613, Subpart C and at 23 C.F.R. Part 450, Subpart C, "Metropolitan Transportation Planning and Programming."

During planning, local officials conduct assessments of transportation conditions throughout the region. Regional goals and objectives are developed or updated, data on regional traffic patterns are collected, and future land use and travel are projected. A wide range of multimodal alternatives is examined leading to the adoption of policies, plans, and transportation improvement programs. Transportation plans and programs must be financially constrained and, in nonattainment areas, must conform to state implementation plans for air quality. In a local transportation improvement program, sources of funds must be committed and available, and the Federal share to be requested for projects cannot exceed the amounts the locality can reasonably expect on the basis of history and current FTA statutory authorizations.

Planning can be supported from a variety of sources including Metropolitan Planning Program funds (49 U.S.C. Section 5303) and State Planning and Research Program funds (49 U.S.C. Section 5313(b)) administered by FTA, as well as by Urbanized Area Formula Program funds. Planning is also assisted with FHWA planning funds. Flexible funds (e.g., Surface Transportation Program, National Highway System, Congestion Mitigation and Air Quality) may be used for certain planning activities (see Chapter I, paragraph 5, and Appendix E, "Procedures Related to Flexible Funding").

For major capital investments, decisions on design concept and scope (e.g., technology, termini, width, degree of grade separation) are based on corridor or subarea-level studies which are conducted as part of the long-range planning process. Alternative investments or

strategies, possibly including multimodal options, must be evaluated in terms of their effectiveness and cost-effectiveness. The analysis develops information on the direct and indirect costs of the alternatives and such factors as mobility improvements, socio-economic and environmental effects, safety, operating efficiency, land use and economic development, financing, and energy consumption. These multimodal corridor analyses satisfy the new starts requirement that candidate projects be based on the results of an alternatives analysis (49 U.S.C. Section 5309(e)(2)).

Before such a corridor or sub-area analysis is initiated, it must be included in the MPO's Unified Planning Work Program. The study must also be included in the transportation improvement program (TIP) if capital funds administered by FHWA are to be used. A cooperative process involving the MPO, the state department of transportation, transit operators, FTA, FHWA, and other interested agencies and the public is used to establish the extent of the analysis, the alternatives to be considered, and agency roles and responsibilities.

At the end of the corridor or sub-area analysis, the MPO reviews the regional transportation plan and modifies it as appropriate to identify the selected design concept and scope. Requests to initiate preliminary engineering may be submitted for projects that are included in the adopted plan.

3. PRELIMINARY ENGINEERING. The local agency refines the design of the locally preferred alternative, and possibly other alternatives that have been found to be cost-effective. More precise estimates of costs and impacts are developed. The environmental process and documents required under the National Environmental Policy Act (NEPA) are completed. A detailed, comprehensive project management plan is developed to ensure construction quality and financial control. The project financing plan is implemented as the non-Federal funding partners commit themselves during this phase. Preliminary engineering should also include, as necessary, activities for peer reviews, value engineering reviews, and security and safety reviews.

Where the financial plan adopted in the planning stage shows that funding under the Capital Program is envisioned, FTA approval to proceed into preliminary engineering is required and can be expected only if the locally preferred alternative meets the New Starts criteria listed in Section 5309(e) of 49 U.S.C. Approval to enter preliminary engineering also will be predicated on the quality of the proposed financing plan for the locally preferred alternative.

In cases where local officials commit, through their financial plan, to construct the locally preferred alternative without Capital Program funding, the Capital Program new start criteria will not apply. However, there must be a minimum transit benefit associated with the project as indicated by an increase in ridership or user benefits. FTA recommends that such projects continue to apply the new start criteria. In addition, the applicant should be cognizant of the certifications required, which are described in the paragraphs below.

4. **FINAL DESIGN.** This is the last phase of project development before construction. The final design phase includes the acquisition of right-of-way, utility relocation, and the preparation of final construction plans, including construction management plans, detailed specifications, cost estimates, and bid documents. As directed in TEA-21, FTA approval to proceed into final design is required.

Where major transit investments are proposed only for funding under the Urbanized Area Formula Program, the applicant must certify:

- a. that no future Capital Program assistance will be needed either for that new start project or for other routine capital needs. In essence, the grant recipient must be able to commence and complete the new start project entirely with Urbanized Area Formula Program funds, private resources, state and local resources, and other Federal non-discretionary resources;

This is similar to the existing FTA policy regarding use of interstate transfer funds for new starts. If the recipient cannot make this certification, Urbanized Area Formula Program funds may not be used unless and until a commitment is received from FTA for Capital Program financing;

- b. that sufficient funds are available to operate and maintain that system;
- c. that the project is cost-effective; (Note: If a grantee goes ahead with Urbanized Area Formula Program funds and does not use any Capital Program funds, the cost-effectiveness representation can be on the grantee's terms, that is, land use impacts, comfort, amenity, etc.-- the grantee's objectives. However, the recipient must also show that there is a minimum transit benefit associated with the project as demonstrated by an increase in ridership or user benefits. If a grantee uses Capital Program funds, the New Start criteria of 49 U.S.C. 5309(e) apply.) and
- d. that the system will meet minimum design criteria to ensure safe system construction and operation.

5. **OTHER REQUIREMENTS.** The project would also have to satisfy all other applicable laws and regulations, including the National Environmental Policy Act (NEPA). For major investment projects, the NEPA process normally includes preparation of draft and final environmental impact statements. The NEPA process may be initiated as part of the corridor or sub-area analysis in planning, and the draft environmental document is prepared either as part of the planning analysis or as part of preliminary engineering. The final environmental document is completed during preliminary engineering. Regulations governing the NEPA process are codified at 23 C.F.R. Part 771.

Grantees that are able to satisfy FTA's requirements for new start construction under the Capital Program and have received a commitment for such funds may use available Urbanized Area Formula Program resources or interstate transfer funds to supplement the Capital Program funds, provided routine capital needs are met within the available Urbanized

Area Formula Program resources and provided such use is not inconsistent with the specific Capital Program agreement between FTA and the grantee for the project.

APPENDIX D  
OPERATING ASSISTANCE PROJECTS

1. APPENDIX CONTENTS. The following paragraphs present budget information to be used by the grant applicant to determine the Federal funds which the grant applicant is eligible to receive for an operating assistance project authorized by 49 U.S.C. Section 5307. The discussion provides information on certain revenue and expense items of particular relevance to operating assistance projects. For additional assistance, the grant applicant should review the cost principles and standards discussed in Office of Management and Budget Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," dated May 17, 1995.

FTA reserves the authority to request any applicant to provide documentation in support of expense and other financial information indicated in an operating assistance grant application on a case by case basis. In the event that an audit reveals an overpayment or an inappropriate payment of operating assistance funds, the grantee will be required to reimburse FTA.

2. DEFINITION. Operating costs are considered those expenses necessary to operate, maintain, and manage a transit system. Operating expenses usually include such costs as driver salaries, fuel, and items having a useful life of less than a year.

The term "operating expenses" is defined in the Glossary of Transit Terms for the National Transit Database as "all expenses associated with the operation of an individual mode by an operator. Operating expenses do not include reconciling items such as interest expenses and depreciation." Generally, a grantee may call any eligible cost that is not a capital or planning cost an operating cost.

It is the responsibility of the applicant to demonstrate that the amount of funds being requested for operating assistance is no more than half the operating expenses after fare and other system-generated revenues such as advertising or concessions are used to reduce the operating costs to a net operating project cost. It is also the responsibility of the grantee to establish its operating expense records in accordance with the reporting system and uniform system of accounts and records prescribed by 49 U.S.C. 5335(a).

3. OPERATING ASSISTANCE AVAILABLE IN FY 1999 AND THEREAFTER.
  - a. General. Beginning with FY 1999 funds, FTA operating assistance is available only to urbanized areas with populations under 200,000. (In general, operating assistance is no longer available to urbanized areas with populations of 200,000 and above.) There is no limitation on the amount of a smaller urbanized area's apportionment that may be used for operating assistance. The Federal/local share ratio for operating assistance for

FY 1999 and thereafter may not be more than 50 percent of the net project cost of the operating assistance project.

- b. Exception. TEA-21 provided an exception to the availability of funds for operating assistance to areas with populations 200,000 and above. TEA-21 amended Title 49 Section 5336(d) to provide operating assistance under the Urbanized Area Formula Program to any urbanized area with a population of 200,000 and over if the number of total bus revenue vehicle-miles operated in or directly serving the area is less than 900,000, and if the number of buses operated in or directly serving the area does not exceed 15. The period of availability of operating assistance to these areas begins with the date of enactment of TEA-21 (June 9, 1998) and ends three years after enactment or the date on which the FTA determines that the vehicle miles figure is greater than or equal to 900,000 and the number of buses exceeds 15, whichever is the first to occur.

The exception makes operating assistance available to those urbanized areas with populations of 200,000 and above within which a total for the urbanized area of no more than 15 vehicles provide service and within which a total for the urbanized area of fewer than 900,000 bus revenue-vehicle miles are operated in or directly service the area. This provision is not available to small operators within a large urbanized area in which the total number of vehicles that provide service is more than 15 and the total number of bus revenue vehicle miles operated in or directly servicing the area is 900,000 or more.

4. APPEARANCE IN A TIP. All operating assistance projects must appear in a metropolitan transportation improvement program (TIP) approved by the MPO. In order to maintain or establish operations, however, in the absence of an approved metropolitan TIP or statewide TIP (STIP), the FTA Regional Administrator may nevertheless, on a case-by-case basis, approve a grant application for operating assistance.
5. FUNDING LEVELS. By law, FTA must publish the formula apportionments by October 1 or within 10 days of enactment of the annual DOT and Related Agencies Appropriations Act, whichever is later. For areas with populations under 200,000, FTA provides an apportionment to the state, and the Governor of the state has the authority to re-allocate the state apportionment to the small urbanized areas. (For discussion of the Governor's authority to re-allocate funds and to transfer funds, please see Chapter IV of this circular.)
6. REVENUE: FEDERAL SHARE/LOCAL MATCH. The Federal share of any operating assistance project shall not exceed the lesser of the local match, the currently available apportionment to the urbanized area plus any carryover funds available from past years, or 50 percent of the net project cost incurred on an accrual basis in the provision of transit services during the project period.

The amount contributed to meeting net project cost from non-Federal sources constitutes the local match. All local and state revenues generally are eligible for inclusion in the local match with the exception of farebox and farebox-related revenues, i.e., cash collected at the farebox, multi-ride tickets, transfers, zone changes, and parking fees at park-and-ride lots.



The entire amount of farebox revenues must be matched against eligible expenses, thus reducing the net project cost subject to FTA participation. Farebox revenues cannot be used to match non-transit operating expenses that are ineligible for reimbursement.

However, 49 U.S.C. Section 5307(e) provides that "revenues from the operation of a transit system" shall not include the amount of any revenues derived by the system from the sale of advertising and concessions which are in excess of the amount of such revenues from the sale of advertising and concessions in fiscal year 1985. This means that advertising and concessions revenue in excess of 1985 levels may be treated as local match, not system revenue.

In a very limited number of situations, Federal funds may be eligible for inclusion in the local match. Such use is dependent upon agreement by the Federal agency. As an example, Community Development Block Grant funds administered by the Department of Housing and Urban Development (HUD) may be used to provide the local share of Federal transit projects so long as the transit activities are (1) eligible for assistance under the Community Development program, and (2) in compliance with HUD regulations, "Community Development Block Grants" 24 C.F.R. Part 570. (See 42 U.S.C. Section 5305(a)(9) and 24 C.F.R. Section 570.201(g)).

Profit from non-transit operations may be included in the local match to the extent that such revenues are actually applied to cover eligible operating expenses.

Federal and local matching funds may only be applied to eligible operating expenses incurred on an accrual basis in providing transit services during the project period.

7. EXPENSES ELIGIBLE FOR FTA OPERATING ASSISTANCE. As stated, eligible operating expenses are direct labor, material, and overhead expenses incurred on an accrual basis by an operator to provide transit services in the urbanized area during one local fiscal year. Expenses for contractual services directly incident to the management and operation of transit services and which are not otherwise reimbursed are included. While the cost principles established in OMB Circular A-87 should be used as guidelines for determining the eligibility of specific types of expenses, the following are representative of operating expenses eligible for FTA operating assistance:
- a. Fuel, wages, and other expenses incurred in the operation of transit services to or within the urbanized area;
  - b. Pension benefits and contributions to a pension plan, only if actually paid and only up to a maximum of the current year accrual;
  - c. Self-insurance costs are limited to the extent of actual contribution to a reserve for a self-insurance program that has been approved by FTA;
  - d. Purchase of service contracts for transit services;

- e. Interest and other financial costs associated with borrowing to provide working capital for the payment of current operating expenses. The loan agreement must be properly documented and amenable to audit;
  - f. Operating expenses associated with special transit services for people with disabilities; (Certain of these costs may be supported by FTA with capital funds. Please see Chapter III, paragraph 4d, regarding ADA-related paratransit service.);
  - g. Amortization of leasehold improvements may be eligible; this should be discussed with the Regional Office; and
  - h. For private operators, a reasonable return on investment (profit) is an eligible expense.
8. OPERATING EXPENSES INELIGIBLE FOR FTA ASSISTANCE. Standards for determining eligible and ineligible expenses can be found in OMB Circular A-87, "Cost Principles for State and Local Governments." In practice, when grantees apply for FTA Urbanized Area Formula Program grants, eligible operating expenses are derived as the remainder when various categories of noneligible expenses are subtracted from total operating expenses.

Ineligible expenses are actual or estimated expenses during the project year for activities not related to the provision of transit to or within the grantee's urbanized area. Ineligible expenses may not be included in the computation of net project cost. Such activities might include, but are not limited to the following:

- a. Charter bus operations;
- b. School bus operations (i.e., operations for the exclusive transportation of school students, not the carrying of students in regularly scheduled transit services);
- c. Sightseeing services;
- d. Freight haulage;
- e. Intercity transportation;
- f. Transit services wholly outside of the urbanized area;
- g. Expenses for contingencies or capital acquisitions, including contributions to a capital reserve account or fund;
- h. Capitalized costs or expenses recognized as part of and reimbursable under another FTA project;
- i. Expenses incurred by a Governor, a designated recipient, or other agency in its capacity as an intermediary for providing Urbanized Area Formula Program funds between FTA and the transit operating entity;
- j. Indirect transit-related functions or activities of state, regional, or local entities performed as a normal or direct aspect of general public administration;

- k. For private transit operators, provision for Federal, state, or local income taxes;
- l. Depreciation accrued by public operators, depreciation on facilities or equipment purchased with public (i.e., Federal, state, or local) capital assistance, depreciation of an intangible asset, and/or depreciation in excess of the rate otherwise used for income tax purposes;
- m. Interest expense on long-term borrowing and debt retirement;
- n. Lobbying expenses; and
- o. Revenue items that directly offset transit expenses (referred to as contra-items), such as the following:
  - (1) Interest income earned on working capital;
  - (2) Proceeds from the sale of equipment in excess of the depreciated value (private operators only);
  - (3) Cash discounts and refunds that directly offset accrued expenses;
  - (4) Insurance claims and reimbursements that directly offset accrued liabilities; and
  - (5) State fuel tax rebates to public operators.

9. APPLICATION INFORMATION. The following information is requested for showing operating assistance projects in the application.

- a. Project year;
- b. State re-allocation to the urbanized area, or if a larger UZA, the annual apportionment;
- c. Available carryover balances;
- d. Amount of funds transferred to or received from another urbanized area or from the Nonurbanized Area Formula Program;
- e. Total funds available; and
- f. Total funds requested.

10. OPERATING EXPENSE WORKSHEET. An operating expense worksheet is provided for applicants to determine the amounts of available Urbanized Area Formula Program funds that may actually be requested. The use of this worksheet ensures consistency in the manner operating expenses are calculated and provides an audit trail, which may have long-term benefits to the grantee. The grant applicant is not required to submit this worksheet as part of its grant application; however, the grant applicant must maintain records to support charges to a grant.

The operating expense worksheet developed in support of the funding request should contain several basic line items, as follows:

- a. Eligible Operating Expenses. Eligible operating expenses are limited to direct labor, material and overhead expenses incurred on an accrual basis by an operator to provide transit service in the urbanized area usually during one local fiscal year. Expenses for contractual services directly incidental to the management and operation of transportation services, and which are not otherwise reimbursed are also included.

Eligible operating expenses form the remainder when various categories of noneligible expenses are subtracted from total expenses. (Line 1 - Line 2 = Line 3)

- b. Farebox Revenues and Revenues Applied to Eligible Expenses Not Includable as Local Share. All funds used to cover eligible operating expenses must be represented in the worksheet. This line represents those revenues used to cover eligible expenses which cannot be included in "local share"--in other words, "non-matchable" revenue. This category includes transit farebox and farebox-related revenue. (Line 4)
- c. Net Project Cost. This line represents the difference between lines (3) and (4), i.e., the amount of eligible operating expenses to be covered by the local and FTA shares. (Line 5)
- d. Local Share. Local share (i.e., non-Federal share) includes all local and state funds contributed to meeting net project cost. Only those funds actually applied to eligible operating expenses incurred on an accrual basis in providing transit services during the project period may be considered local match. (Line 6)
- e. Net Expenses Before Applying FTA Funds. This amount represents the difference between "net project cost" and "local share," and it should represent the amount of eligible operating expenses not otherwise covered by transit revenues or local share funds. (Line 7)
- f. FTA Funds Available. This is the amount determined to be the maximum FTA share, based upon the worksheet. The FTA share can be up to 50 percent of the net project cost. If local share is less than or equal to 50 percent of net project cost, it can be matched dollar-for-dollar with FTA operating assistance, subject to the availability of Urbanized Area Formula Program funds and the local programming of projects. If the local share is greater than 50 percent of net project cost, FTA operating assistance will only cover the amount in line 7, "net expenses before applying FTA funds." (Line 8)

The worksheet should describe as fully and as accurately as possible the actual or projected accrual of transit operating expenses, the identification of expenses eligible for FTA assistance, the application of transit revenues to cover such expenses, the application of state and local government funds and other sources of local share, and the resulting eligibility for FTA operating assistance.

Where an applicant applies on behalf of two or more individual transit operators under one operating assistance project, the worksheet should represent aggregated statements of project year revenues and expenses.

Appropriate documentation in support of the worksheet should also be retained by the applicant to demonstrate the proper allocation of revenues to nonoperating expenses, the availability of local share funds, and such other reconciliations as may be necessary to clarify estimates or projections of financial conditions during the project year. Certifications of worksheets based on estimates or projections are not required.

In preparing the worksheets, grant applicants should itemize entries under each revenue and expense category. The number of lines provided in the attached format may, of course, be expanded whenever necessary to accommodate additional entries. Some lines (e.g., "other exclusions") may not be needed by individual grant applicants. It is particularly important that the itemization of revenues and expenses be sufficient to permit verification of calculations of eligible operating expenses, net project cost, local share and eligible FTA assistance during any subsequent audit pursuant to 49 U.S.C. 5307 and to OMB Circular A-128, "Audits of State and Local Governments."

OPERATING EXPENSE WORKSHEET

For the Period: \_\_\_\_\_

Transit Operator(s): \_\_\_\_\_

Grant Applicant: \_\_\_\_\_

Designated Recipient: \_\_\_\_\_

(A) Total Operating Expenses (Itemize)

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

TOTAL OPERATING EXPENSES

\$ \_\_\_\_\_(1)

(B) Less Eliminations

(1) Less Ineligible Expenses (Itemize)

_____	\$ _____
_____	\$ _____

(2) Less Non-Mass Transportation Expenses (Itemize)

_____	\$ _____
_____	\$ _____

(3) Less Revenue/Offset items (Contra-Expenses) (Itemize)

_____	\$ _____
_____	\$ _____

(4) Less Other Exclusions (Itemize)  
(e.g., costs already attributed to a vehicle overhaul project)

_____	\$ _____
_____	\$ _____

TOTAL ELIMINATIONS

\$ \_\_\_\_\_(2)

OPERATING EXPENSE WORKSHEET (con't)

(C) Eligible Operating Expenses \$ \_\_\_\_\_ (3)  
(Line 1 - Line 2)

(D) Less Farebox and Other Revenues  
Not Includable as Local Share (Itemize)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TOTAL FAREBOX AND OTHER REVENUE APPLIED  
AGAINST ELIGIBLE EXPENSES NOT INCLUDABLE  
AS LOCAL SHARE: \$ \_\_\_\_\_ (4)

(E) Net Project Cost (Line 3 - Line 4) \$ \_\_\_\_\_ (5)

(F) Local Share (Itemize)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\$ \_\_\_\_\_ (6)

(G) Net Expenses Before Applying FTA Funds \$ \_\_\_\_\_ (7)  
(Line 5 - Line 6)

(H) FTA Funds Available \$ \_\_\_\_\_ (8)

(I) FTA Funds Requested \$ \_\_\_\_\_ (9)





APPENDIX E

PROCEDURES RELATED TO FLEXIBLE FUNDING

1. **FLEXIBLE FUNDS.** Flexible funding categories are those programs authorized under the Federal-aid highway program that are permitted to be used for either transit or highway projects. The funds may be used for any non-operating purpose eligible under the FTA Urbanized Area Formula Program (49 U.S.C. Section 5307), the Elderly and Persons with Disabilities Program (49 U.S.C. Section 5310) and the Nonurbanized Area Formula Program (49 U.S.C. Section 5311) (including preventive maintenance). Flexible fund programs include the Surface Transportation Program (STP), , Donor State Bonus, Interstate Maintenance, Bridge Replacement and Rehabilitation, National Highway System, Substitute Highway, and the Congestion Mitigation and Air Quality Improvement (CMAQ) programs. Although these FHWA programs have intermodal flexibility, it is important to note that there are both programmatic and distributive limitations on the use of at least some portions of some programs. (As examples, 10 percent of Surface Transportation Program (STP) funds are set aside for safety projects, and there are funds in some programs available only to rural, and only to urbanized areas.)
  
2. **PROCEDURES.** The FTA and FHWA have jointly developed procedures to allow the use of flexible funds provided for under ISTEA. The following guidance refers only to the funds transferred to the Urbanized Area Formula Program.
  - a. **General.** For those flexible funds transferred from FHWA to FTA for use in an urbanized area, the funds are placed in an urbanized area account or state account under the Urbanized Area Formula Program. Thereafter, the funding will be treated as Urbanized Area Formula Program funds although they retain a special identifying code. Flexible funds should be combined with regular FTA formula funds in a single matching grant application, but identified as such.
  
  - b. **Funds Transferred to FTA.** Funds available under the Surface Transportation Program (STP) may be transferred to FTA and used for any capital purpose eligible under the FTA Urbanized Area Formula Program. In addition, National Highway System (NHS) funds and portions of FHWA's Interstate Maintenance and Bridge programs may be transferred to the STP and then made available to FTA for transit capital projects consistent with FTA requirements of the Urbanized Area Formula Program. Finally, funds available under the Congestion Mitigation and Air Quality Improvement (CMAQ) program may be used in ozone and carbon-monoxide "nonattainment" areas for any transportation project or program (including several transit activities eligible under the Urbanized Area Formula Program) which helps lead to the attainment of national ambient air quality standards.  
  
Transit projects in urbanized areas over 50,000 that are to be funded under any of these flexible programs must be identified through a regional transportation planning process

and programmed in an approved metropolitan Transportation Improvement Program (TIP) and Statewide Transportation Improvement Program (STIP). Approval of the TIP by the Governor for inclusion into the STIP document constitutes a state's commitment to funding programmed projects with the identified FHWA source.

Once a project is ready to be implemented, the FTA grantee submits a complete application to the appropriate FTA Regional Office according to the application instructions of Chapter VI. At the same time, the grantee notifies the designated state highway/transportation agency that it has submitted an application to FTA that will require a transfer of FHWA funds to FTA. In some states, in practice, it may be the MPO or the FTA that notifies the state highway/transportation agency. Once the state highway/transportation agency determines that the state has sufficient obligation authority, the state agency notifies FHWA that the funds are to be used for transit purposes and requests that the funds be obligated by FHWA as a transfer project to FTA.

Once the project is approved and obligated, the grantee carries out the project following the guidance of FTA Circular 5010.1C, "Grant Management Guidelines." The FTA Regional Office will administer the project as an Urbanized Area Formula Program project.

- c. Matching Share for Flexible Funds. The provisions of Title 23, U.S.Code, regarding the non-Federal share apply to Title 23 funds used for 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 the FHWA.

There are two instances in which a higher than 80 percent Federal share would be maintained. First, in states with large areas of Indian and certain public domain lands, and National forests, parks and monuments, the local share for highway projects is determined by a sliding scale rate, calculated on the basis of the percentage of public lands within that state. This sliding scale, which permits a greater Federal share, but not to exceed 95 percent, is applicable to transit projects funded with flexible funds in these public land states. FHWA develops annually the sliding scale matching ratios for the increased Federal share.

Secondly, commuter ridesharing projects (carpooling and vanpooling) and transit safety projects using flexible funds administered by FTA may retain the same 100 percent Federal share that would be allowed for ride-sharing or safety projects administered by the FHWA.

CMAQ funds are available for operating assistance at the 80 percent Federal share, but such availability is limited to the introduction of new transit services and for up to a three-year period only.

- d. Use of FHWA Funding for Transit without a Transfer. It should be noted that funding under several FHWA programs may be used for some transit and transit-related projects without actually being transferred and administered by FTA. Local and state officials may choose, for example, to administer certain flexibly funded projects, such as

high-occupancy-vehicle lanes and park-and-ride lots, through FHWA rather than FTA if this would facilitate the delivery of the project. The decision to administer FHWA flexible funds through FTA or FHWA when the project is eligible for funding under both programs should be based on the nature of the project, the agencies involved in its implementation, and the preference of the fund recipient to follow either FTA or FHWA administrative procedures and requirements.

There is no need to transfer STP, CMAQ, and NHS funds, for example, from FHWA to FTA when the grant applicant is undertaking transit-related planning activities: the eligibility criteria for planning activities under these FHWA programs and under the Urbanized Area Formula Program are identical.

- e. Transfer of FTA Funds to FHWA. As noted in Chapter IV, paragraph 7, under certain conditions Urbanized Area Formula Program funds may be transferred to FHWA and used for highway projects. To be eligible for this purpose, Urbanized Area Formula Program capital funds must be:
- (1) Attributable to Transportation Management Areas;
  - (2) Approved for highway purposes by the cognizant MPO;
  - (3) Certified by the MPO as not being needed for investments required by the Americans with Disabilities Act of 1990 (ADA). (FTA must then make a determination that ADA needs have been met.); and
  - (4) Local funds used for the non-Federal matching share must be usable for either highway or transit projects.

A highway project funded under the FTA Urbanized Area Formula Program must follow the same planning, programming, and project selection processes described earlier in paragraph 2b. Once these steps are completed, the designated state highway/transportation agency notifies the Urbanized Area Formula Program designated recipient that the project is ready to proceed. The designated recipient then sends a transfer request, including the ADA certification mentioned above, to the appropriate FTA Regional Office. Upon FTA's determination that ADA needs have been met, the transfer of Urbanized Area Formula Program funds to the cognizant FHWA Division Office will be processed.



APPENDIX F

FORMS AND REPRESENTATIVE DOCUMENTS

	<u>PAGE</u>
• Application (SF-424)	1
• Authorizing Resolution	3
• Fleet Status	5
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• Like-Kind Exchange	9
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• Subregional Allocation	19
• Supplemental Agreement	21
• Proceeds from Sale of Assets	23



**APPLICATION FOR  
FEDERAL ASSISTANCE**

		2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION: Application <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction Preapplication <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction		3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier
5. APPLICANT INFORMATION			
Legal Name		Organizational Unit	
Address (give city, county, state and zip code)		Name and telephone number of the person to be contacted on matters involving this application (give area code)	
6. EMPLOYER IDENTIFICATION NUMBER (EIN): [ ] [ ] - [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]		7. TYPE OF APPLICANT: (enter appropriate letter in box) <input type="checkbox"/>	
8. TYPE OF APPLICATION: <input type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in boxes: <input type="checkbox"/> <input type="checkbox"/> A Increase Award B Decrease Award C Increase Duration D Decrease Duration Other (specify) _____		A State H Independent School Dist	
		B County I State Controlled Institution of Higher Learning	
		C Municipal J Private University	
		D Township K Indian Tribe	
		E Interstate L Individual	
		F Intermunicipal M Profit Organization	
		G Special District N Other (Specify) _____	
		8. NAME OF FEDERAL AGENCY:	
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: [ ] [ ] a [ ] [ ] [ ] [ ]		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:	
TITLE			
12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.)			
13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF	
Start Date	Ending Date	a Applicant	b Project
15. ESTIMATED FUNDING		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?	
a Federal	\$ .00	a YES THIS PREAPPLICATION APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____	
b Applicant	\$ .00	b NO <input type="checkbox"/> PROGRAM IS NOT COVERED BY E O 12372	
c State	\$ .00	<input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
d Local	\$ .00		
e Other	\$ .00		
f Program Income	\$ .00	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?	
g TOTAL	\$ .00	<input type="checkbox"/> Yes If "Yes," attach an explanation <input type="checkbox"/> No	
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED			
a Typed Name of Authorized Representative		b Title	c Telephone number
d Signature of Authorized Representative		e Date Signed	

### INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

- | Item: | Entry:   | Item: | Entry:   |
|-------|--|-------|--|
| 1     | Self-explanatory.  | 12    | List only the largest political entities affected (e.g., State, counties, cities).   |
| 2     | Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).  | 13    | Self-explanatory.  |
| 3     | State use only (if applicable).  | 14    | List the applicant's Congressional District and any District(s) affected by the program or project.  |
| 4     | If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.  | 15    | Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate <u>only</u> the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15. |
| 5     | Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.   | 16    | Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.  |
| 6     | Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.  | 17    | This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.  |
| 7     | Enter the appropriate letter in the space provided.  | 18    | To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)  |
| 8     | Check appropriate box and enter appropriate letter(s) in the space(s) provided:<br>— "New" means a new assistance award.<br>— "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.<br>— "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. |       |  |
| 9     | Name of Federal agency from which assistance is being requested with this application.   |       |  |
| 10    | Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.  |       |  |
| 11    | Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.  |       |  |



(SAMPLE) AUTHORIZING RESOLUTION

Resolution No. \_\_\_\_\_

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

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

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

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

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

1. That (Title of Designated Official) is authorized to execute and file an application for Federal assistance on behalf of (Legal Name of Applicant) with the Federal Transit Administration for Federal assistance authorized by 49 U.S.C. chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the Federal Transit Administration. (If the Applicant is requesting Urbanized Area Formula Program assistance authorized by 49 U.S.C. § 5307, either alone or in addition to other Federal assistance administered by the Federal Transit Administration), the resolution should state whether the Applicant is the Designated Recipient as defined by 49 U.S.C. § 5307(a)(2), or whether the Applicant has received authority from the Designated Recipient to apply for Urbanized Area Formula Program assistance.

2. That (Title of Designated Official) is authorized to execute and file with its applications the annual certifications and assurances and other documents the Federal Transportation Administration requires before awarding a Federal assistance grant or cooperative agreement.

3. That (Title of Designated Official) is authorized to execute grant and cooperative agreements with the Federal Transit Administration on behalf of (Legal Name of Applicant).

CERTIFICATION

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

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

\_\_\_\_\_  
(Signature of Recording Officer)  
\_\_\_\_\_  
(Title of Recording Officer)  
\_\_\_\_\_  
(Date)



(Name of Grantee)

CLASSIFICATION OF FLEET

	<u>Before Grant Approval</u>	<u>Amount of Change</u>	<u>After Grant Approval</u>
I. Active Fleet			
A. Peak Requirement	—	—	—
B. Spares	—	—	—
C. Total (A+B)	—	—	—
D. Spare Ratio (B/A)	—	—	—
II. Inactive Fleet			
A. Contingency Reserve	—	—	—
B. Pending Disposal	—	—	—
C. Total (A+B)	—	—	—
III. Total Fleet (I.C. + II.C)	—	—	—



(Name of Grantee)

Listing of Vehicles to be Replaced

<u>Make/Model</u>	<u>Year of Manufacture</u>	<u>Vehicle I.D. Number (VIN)</u>	<u>Mo./Yr. Placed in Rev. Service</u>	<u>Accumulated Rev. Miles</u>	<u>Estimated Mo./Yr. to be taken Out of Rev. Service</u>	<u>Original Grant Purchased Under</u>
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Example Transaction for Mid-life Sale of Transit Bus  
When Federal Interest is Re-invested in Replacement Transit Bus

1. A grantee purchased a new bus in 1988 for \$180,000; 80 percent of the total price, or \$144,000, was Federal funding while 20 percent, or \$36,000, was local. Thus, there was an initial \$144,000 "Federal interest" in the new vehicle.
2. Instead of keeping the bus in service for 12 years, the minimum normal service life under FTA guidelines, the grantee chose to sell the bus after six years and replace it with a new vehicle.
3. Since the bus had a minimum normal service life of 12 years and its depreciation was determined on a "straight-line" basis, the depreciated value of the vehicle after six years was half the original price, or \$90,000. The remaining Federal interest was 80 percent of that figure, \$72,000.
4. Assume, for example, the grantee realized \$70,000 from the sale of the six-year-old bus, or \$20,000 less than the straight-line depreciated value of the original vehicle. The grantee then purchased a new bus in 1994 for \$200,000. The transaction looked like this:

Net project cost calculation:

Gross project cost of new bus	\$200,000
Less straight-line depreciated value of replaced bus.	- 90,000
Net project cost	\$110,000
Federal share 80%	88,000
Local share 20%	22,000

Sources of funds for new bus:

Net sales proceeds from replaced bus	\$ 70,000
New local cash	
Straight-line depreciated value shortfall	20,000
Local share of net project cost	22,000
Federal share	<u>88,000</u>
TOTAL	\$200,000

The Federal interest in the new bus is \$160,000 (\$72,000 transferred from the old vehicle and \$88,000 in the new).







**DISCLOSURE OF LOBBYING ACTIVITIES  
CONTINUATION SHEET**

Approved by OMB  
0346-0046

Reporting Entity: \_\_\_\_\_

Page \_\_\_\_\_ of \_\_\_\_\_

[Empty table area for reporting lobbying activities]

### INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (Item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in Item 1 (e.g., Request for Proposal (RFP) number; invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.



(SAMPLE) OPINION OF COUNSEL

Name of Applicant  
Address of Applicant

Dear (Responsible Official for Applicant):

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

(If the Applicant intends to use this opinion to qualify for Urbanized Area Formula Program assistance authorized by 49 U.S.C. § 5307, the opinion must state whether the Applicant is the Designated Recipient as defined at 49 U.S.C. § 5307(a)(2) or whether the Applicant has received authority from the Designated Recipient to apply for and receive Urbanized Area Formula Program assistance.)

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

1. \_\_\_\_\_ is authorized by (cite and quote from legal authority) to provide and assist transportation by \_\_\_\_\_
  
2. The authority of (Name of Applicant) to provide funds for the local share of the project is set forth in (cite source and provide a copy of, for example, the local ordinance passed by City Council or other governing body authorizing funding for the local share)
  
3. I have reviewed the pertinent Federal, state, and local laws, and I have concluded that there is no legal impediment to your filing an application for the project for which (Name of Applicant) seeks assistance. Furthermore, as a result of my examination, I find that there is no pending or threatened litigation or other action which might in any way adversely affect the proposed project or the capability of (Name of Applicant) to carry out the project.

Sincerely,

Legal Counsel



(GRANTEE)

PROJECT MILESTONE SCHEDULE (SAMPLE)

PROJECT NO.: XX-90-0162

MOST RECENT AMENDMENT NO.: N/A

TOTAL FTA SHARE: \$3,300,000

MILESTONE SCHEDULE:

<u>Line Item Description</u>	<u>Milestone Description</u>	<u>Date</u>
<i>Capital Assistance:</i>		
Purchase 10 30-ft. buses	Bids advertised	Dec. 1993
	Contract	March 1994
	First bus delivery, acceptance	May 1994
	Last bus delivery, acceptance	March 1995
	Contract complete (Final payment made)	May 1995
Purchase/install communications equipment	Bids advertised	April 1995
	Contract awarded	June 1995
	Contract complete	Sept. 1995
Engineering design for new facility	Request for proposals	Jan. 1995
	Contract awarded	March 1995
	Design completed	June 1995
	Contract closed (Final payment made)	July 1995

PROJECT MILESTONE SCHEDULE (SAMPLE) (con't)

MILESTONE SCHEDULE:

<u>Line Item Description</u>	<u>Milestone Description</u>	<u>Date</u>
<i>Planning Assistance:</i>		
Needs Assessment for Maintenance Facility	RFP advertised	Dec. 1994
	Contract awarded	March 1995
	Study completed	July 1995
<i>Operating Assistance:</i>		
Op. Asst. for FY 1996	Final Disbursement	Sept. 1996



SUBREGIONAL ALLOCATION (SAMPLE)



November 30 1995

Mr. Hiram Walker  
Associate Administrator for  
Program Management  
Federal Transit Administration  
400 7th Street, SW  
Washington, DC 20590

Dear Mr. Walker:

This letter is to inform you that the Washington Metropolitan Area Transit Authority (WMATA), the Maryland Mass Transit Administration (MTA), and the Potomac and Rappahannock Transportation Commission (NVTC) have agreed on the distribution of the FY 1996 Section 5307 funds available to the Washington, DC-Maryland-Virginia urbanized area. WMATA concurs in the following distribution.

	<u>Capital</u>	<u>Operating</u>	<u>Total</u>
WMATA	\$xx,xxx,xxx	\$x,xxx,xxx	\$xx,xxx,xxx
MTA	x,xxx,xxx		x,xxx,xxx
PRTC/NVTC	<u>x,xxx,xxx</u>	<u>                    </u>	<u>x,xxx,xxx</u>
Totals	\$xx,xxx,xxx	\$x,xxx,xxx	\$xx,xxx,xxx

Washington  
Metropolitan Area  
Transit Authority

600 Fifth Street, NW  
Washington, DC 20001  
202 962 1234

If further information is required on this matter, please contact Mr. Rod Peterson at 1-202-962-1637.

Sincerely,

Peter Benjamin  
Assistant General Manager  
for Finance

E. Verrara  
... Square Feet Line  
... Place Chinatown  
... Green and  
... Lines

...  
...  
...



**SUPPLEMENTAL AGREEMENT FORM  
WHEN DESIGNATED RECIPIENT IS NOT GRANT RECIPIENT**

**U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL TRANSIT ADMINISTRATION**

**SUPPLEMENTAL AGREEMENT  
(Attachment to Form FTA G-2, October 1, 1995)**

The Federal Transit Administration is required by 49 U.S.C. § 5307 to enter into a formal agreement with the Designated Recipient for projects the Designated Recipient does not carry out directly. The Grantee under this Grant Agreement is not the Designated Recipient. Therefore, the Designated Recipient, in accordance with 49 U.S.C. § 5307 hereby agrees to permit the Grantee under this Grant Agreement to receive and dispense the Federal assistance funds described in this Grant Agreement. The Designated Recipient further agrees that the Grantee shall assume all responsibilities set forth in this Grant Agreement.

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

\_\_\_\_\_  
Authorized Official  
Federal Transit Administration

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Official  
Designated Recipient

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Official

\_\_\_\_\_  
Date



## PROCEEDS FROM THE SALE OF ASSETS

TEA-21 amended Section 5334(g) of Federal transit law to add another option for disposing of capital assets that have been acquired with FTA assistance. The provision is effective after June 9, 1998 (date of enactment of TEA-21). Section 5334(g)(4) permits a grantee to apply the proceeds from the disposition of an asset no longer needed for transit purposes to a subsequent capital project. Following is the language of TEA-21:

""(A). In general.--When real property, equipment, or supplies acquired with assistance under this chapter are no longer needed for mass transportation purposes as determined under the applicable assistance agreement, the Secretary may authorize the sale, transfer, or lease of the assets under conditions determined by the Secretary and subject to the requirements of this subsection.

(B) Use.--The net income from asset sales, uses or leases (including lease renewals) under this subsection shall be used by the recipient to reduce the gross project costs of other capital projects carried out under this chapter."

A grantee intending to dispose of an asset in accordance with this section of transit law should inform FTA of its intentions before disposing of the asset. When the grantee receives proceeds from the disposition of the asset, the grantee is expected to establish in the grantee's accounting system a record of liability (demonstrating that these funds are owed), which will be removed when the grantee uses the proceeds for a subsequent transit project.

When the grantee applies for a grant from FTA and applies the proceeds to the new transit project, the grantee should show the past transaction on the Grant Application screen of the FTA electronic system. The grantee should fill in the line "adjustment amount" to show that the proceeds (or a portion of the proceeds) from the earlier disposition are being applied to the project and are being used to reduce the total project cost (gross project cost). If appropriate, the grantee may also describe in the Extended Text Screen the actions the grantee has taken or intends to take.

EXAMPLE. Here is a hypothetical example.

Grantee Disposes of Asset. Twenty years ago FTA provided a grantee with assistance to purchase a parcel of land. Assume the parcel is no longer needed for transit purposes. Having received disposition concurrence from FTA, the grantee sells the parcel and receives net sales proceeds of \$50,000.

Grantee Applies Proceeds to Subsequent FTA-Assisted Transit Project. Assume the grantee applies to FTA for assistance in purchasing a bus. The estimated cost of the bus is \$250,000. On the electronic application screen, the grantee is expected to report the use of the proceeds from the earlier sale of the asset in the following manner.

EXAMPLE APPLICATION INFORMATION USING PROCEEDS  
FROM SALE OF ASSETS IN ACCORDANCE WITH § 5334(g)(4)

**Project Control Totals:**

<b>Total Cost</b>	<b>\$250,000</b>	
<b>Adjustment Amount</b>	<b>-\$50,000</b>	<i>(proceeds from sale of asset)</i>
<b>Eligible Project Cost</b>	<b>\$200,000</b>	<i>(Net Project Cost)</i>
<b>Total FTA Amount</b>	<b>\$160,000</b>	<i>(80% of \$200,000)</i>
<b>Total State Amount</b>		<i>(not applicable for the example)</i>
<b>Total Local Amount:</b>	<b>\$40,000</b>	<i>(20% of \$200,000)</i>
<b>Other Fed. Funds:</b>		<i>(not applicable for the example)</i>
<b>Special Condition Amount</b>		<i>(not applicable for the example)</i>

APPENDIX G

ANNUAL CERTIFICATIONS AND ASSURANCES

1. INTRODUCTION. Before FTA may award a Federal grant, the grant applicant must provide to FTA all certifications and assurances required of the applicant--or in regard to the applicant's project--by Federal laws and regulations. The certifications and assurances are consolidated by FTA each Federal fiscal year into a single document that provides the text of the certifications and assurances to be used in connection with all Federal assistance programs administered by FTA during that fiscal year. The certifications and assurances are normally published on the same date that FTA announces the formula apportionments for the Urbanized Area Formula Program and Capital Program formula<sup>1</sup> apportionments in the Federal Register, an announcement that allocates funds in accordance with the latest U.S. Department of Transportation annual appropriations act. By statute, FTA must announce the formula apportionments on October 1 or within 10 days of enactment of the DOT Appropriations Act, whichever is later.

FTA plans to continue to publish the certifications and assurances annually with any changes or additions specifically highlighted.

2. SAMPLE CERTIFICATIONS AND ASSURANCES IN APPENDIX G. For convenience of the reader, a fair representation of the text of the FY 1998 certifications and assurances is provided in this appendix as a reference. The specific text of a particular certification may change, and new certifications may be added as a result of TEA-21 or other Federal laws, but many of the FY 1999 certifications and assurances will remain substantially as set forth in Appendix G.
3. ELECTRONIC SUBMITTAL. Beginning with Fiscal Year 1999, FTA expects grant applications and certifications and assurances to be submitted electronically by means of the FTA electronic grant award and management system. If a grant applicant is not able to submit the certifications electronically, the applicant should obtain a copy of the Federal Register Notice containing the current fiscal year's certifications and use the form contained in that Federal Register to submit the actual certifications. The current Signature Page shown in the current Federal fiscal year's compilation in the Federal Register must be used.

The signature page, when properly attested to and submitted to FTA, assures FTA that the applicant intends to comply with the requirements for the specific program involved.

4. TIMING. The certifications and assurances must be attested to annually by a grant applicant or by any current grant recipient with an active project within 90 days from the date of their publication in the Federal Register or with the grant applicant's first grant application in the Federal fiscal year, whichever comes first.

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<sup>1</sup> 49 U.S.C. § 5309 Capital Program, fixed guideway modernization

5. ACTION REQUIRED. The authorized representative of the grant applicant and the grantee's attorney must make the requisite certifications by:
  - a. attesting to the certifications and assurances electronically with a personal identification number (PIN); and
  - b. selecting electronically each assurance or certification category that will apply to the applicant's grants for the fiscal year; or
  - c. selecting instead a "Select all" field that signifies the grant applicant will comply with all categories of certifications and assurances.
  
6. REQUIREMENT FOR CURRENT AFFIRMATION. FTA requires a current attorney's affirmation of the grant applicant's legal authority to certify compliance with that fiscal year's FTA funding assistance. The attorney's affirmation from previous years is not acceptable.
  
7. SUPPLEMENTARY INFORMATION. FTA's assistance programs, to which the certifications and assurances apply, include Capital Program Grants; Research, Development and Demonstration Grants; Metropolitan Planning Grants; Formula Assistance Grants for Urbanized Areas; Grants for Training Programs; Formula Assistance Grants for the Elderly and Persons With Disabilities; Formula Assistance Grants for Nonurbanized Areas; Human Resource Grants; and Planning and Research Grants. FTA also uses these certifications and assurances for Federal assistance programs authorized by Title 23, United States Code, administered by FTA.



**EXAMPLE ONLY**

**FY 19xx CERTIFICATIONS AND ASSURANCES FOR FTA ASSISTANCE PROGRAMS**

Each Applicant is requested to provide as many of the following certifications and assurances as possible to cover the various types of Federal assistance programs for which the Applicant intends to seek Federal assistance from FTA in Federal Fiscal Year 19xx. A state making certifications and assurances on behalf of its prospective subrecipients is expected to obtain sufficient documentation from those subrecipients as necessary for the state to make informed certifications and assurances. The 15 categories of certifications and assurances are listed by Roman numerals I through XV on the other side of the Signature Page document. Categories II through XV will apply to some, but not all applicants. The categories correspond to the following descriptions of circumstances mandating submission of specific certifications, assurances, or agreements:

**I. CERTIFICATIONS AND ASSURANCES REQUIRED OF EACH APPLICANT**

Each Applicant for Federal assistance awarded by FTA must make all certifications and assurances in this Category I. Accordingly, FTA may not award any Federal assistance until the Applicant provides assurance of compliance by selecting Category I on the Signature Page at the end of this document.

**A. Authority of Applicant and Its Representative**

The authorized representative of the Applicant and legal counsel who sign these certifications, assurances, and agreements attest that both the Applicant and its authorized representative have adequate authority under state and local law and the by-laws or internal rules of the Applicant organization to:

- (1) Execute and file the application for Federal assistance on behalf of the Applicant,
- (2) Execute and file the required certifications, assurances, and agreements on behalf of the Applicant binding the Applicant, and
- (3) Execute grant and cooperative agreements with FTA on behalf of the Applicant.

**B. Standard Assurances**

The Applicant assures that it will comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal administrative requirements in carrying out any grant or cooperative agreement awarded by FTA. The Applicant acknowledges that it is under a continuing obligation to comply with the terms and conditions of the grant or cooperative agreement issued for its approved project with FTA. The Applicant understands that Federal laws, regulations, policies, and administrative practices might be modified from time to time and affect the implementation of the project. The Applicant agrees that the most recent Federal requirements will apply to the project, unless FTA issues a written determination otherwise.

**C. Debarment, Suspension, and Other Responsibility Matters -- Primary Covered Transactions**

As required by U.S. DOT regulations on Governmentwide Debarment and Suspension (Nonprocurement) at 49 CFR 29.510:

- (1) The Applicant (Primary Participant) certifies to the best of its knowledge and belief, that it and its principals:
  - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) transaction or contract under a public transaction; violation

**EXAMPLE ONLY**

of Federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, state, or local) with commission of any of the offenses listed in paragraph (2) of this certification; and

(d) Have not within a three-year period preceding this certification had one or more public transactions (Federal, state, or local) terminated for cause or default.

(2) The Applicant also certifies that if, later, it becomes aware of any information contradicting the statements of paragraphs (a) through (d) above, it will promptly provide that information to FTA.

(3) If the Applicant (Primary Participant) is unable to certify to the statements within paragraphs (1) and (2) above, it shall indicate so on its Signature Page and provide a written explanation to FTA.

**D. Drug-Free Workplace Certification**

As required by U.S. DOT regulations on Drug-Free Workplace Requirements (Grants) at 49 CFR 29.630, the Applicant certifies that it will provide a drug-free workplace by:

(1) Publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Applicant's workplace and specifying the actions that will be taken against its employees for violation of that prohibition;

(2) Establishing an ongoing drug-free awareness program to inform its employees about: (a) the dangers of drug abuse in the workplace; (b) the Applicant's policy of maintaining a drug-free workplace; (c) any available drug counseling, rehabilitation, and employee assistance programs; and (d) the penalties that may be imposed upon its employees for drug abuse violations occurring in the workplace;

(3) Making it a requirement that each of its employees to be engaged in the performance of the grant or cooperative agreement be given a copy of the statement required by paragraph (1);

(4) Notifying each of its employees in the statement required by paragraph (1) that, as a condition of employment financed with Federal assistance provided by the grant or cooperative agreement, the employee will: (a) abide by the terms of the statement, and (b) notify the employer (Applicant) in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than 5 calendar days after that conviction;

(5) Notifying FTA in writing, within 10 calendar days after receiving notice required by paragraph (4)(b) above from an employee or otherwise receiving actual notice of that conviction.

The Applicant, which is the employer of any convicted employee must provide notice, including position title, to every project officer or other designee on whose project activity the Applicant's convicted employee was working. Notice shall include the identification number(s) of each affected grant or cooperative agreement.

(6) Taking one of the following actions within 30 calendar days of receiving notice under paragraph (4)(b) above with respect to any employee who is so convicted: (a) by taking appropriate personnel action against that employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended, or (b) by requiring that employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, state, or local health, law enforcement, or other appropriate agency;

(7) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), (5), and (6) above.

The Applicant has or will provide to FTA a list identifying its headquarters location and each workplace it maintains in which project activities supported by FTA are conducted.

**EXAMPLE ONLY**

**E. Intergovernmental Review Assurance**

The Applicant assures that each application for Federal assistance submitted to FTA has been or will be submitted, as required by each state, for intergovernmental review to the appropriate state and local agencies. Specifically, the Applicant assures that it has fulfilled or will fulfill the obligations imposed on FTA by U.S. DOT regulations, "Intergovernmental Review of Department of Transportation Programs and Activities," 49 CFR part 17.

**F. Nondiscrimination Assurance**

As required by 49 U.S.C. 5332, Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, the Applicant assures that it will comply with all requirements of 49 CFR part 21; FTA

Circular 4702.1, "Title VI Program Guidelines for Federal Transit Administration Recipients";

and other applicable directives, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Applicant receives Federal assistance awarded by the U.S. DOT or FTA as follows:

- (1) The Applicant assures that each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements of 49 U.S.C. 5332 and 49 CFR part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.
- (2) The Applicant assures that it will take appropriate action to ensure that any transferee receiving property financed with Federal assistance derived from FTA will comply with the applicable requirements of 49 U.S.C. 5332 and 49 CFR part 21.
- (3) The Applicant assures that it will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Applicant assures that it will submit the required information pertaining to its compliance with these requirements.
- (4) The Applicant assures that it will make any changes in its 49 U.S.C. 5332 and Title VI implementing procedures as U.S. DOT or FTA may request.
- (5) As required by 49 CFR 21.7(a)(2), the Applicant will include appropriate clauses in each third party contract or subagreement to impose the requirements of 49 CFR part 21 and 49 U.S.C. 5332, and include appropriate provisions imposing those requirements in deeds and instruments recording the transfer of real property, structures, improvements.

**G. Assurance of Nondiscrimination on the Basis of Disability**

As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," at 49 CFR part 27, implementing the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities

Act of 1990, as amended, the Applicant assures that, as a condition to the approval or extension of any Federal assistance awarded by FTA to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance administered by the FTA or any entity within U.S. DOT. The Applicant assures that project implementation and operations so assisted will comply with all applicable requirements of U.S. DOT regulations

**EXAMPLE ONLY**

implementing the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended, at 49 CFR parts 27, 37, and 38, and any applicable regulations and directives issued by other Federal departments or agencies.

**H. Procurement Compliance**

The Applicant certifies that its procurements and procurement system will comply with all applicable requirements imposed by Federal laws, executive orders, or regulations and the requirements of FTA Circular 4220.1D, "Third Party Contracting Requirements," and other implementing requirements FTA may issue. The Applicant certifies that it will include in its contracts financed in whole or in part with FTA assistance all clauses required by Federal laws, executive orders, or regulations, and will ensure that each subrecipient and contractor will also include in its subagreements and contracts financed in whole or in part with FTA assistance all applicable clauses required by Federal laws, executive orders, or regulations.

**II. LOBBYING CERTIFICATION FOR AN APPLICATION EXCEEDING \$100,000**

An Applicant that submits, or intends to submit this fiscal year, an application for Federal assistance exceeding \$100,000 must provide the following certification. FTA may not provide Federal assistance for an application exceeding \$100,000 until the Applicant provides this certification by selecting Category II on the Signature Page.

A. As required by U.S. DOT regulations, "New Restrictions on Lobbying," at 49 CFR 20.110, the Applicant's authorized representative certifies to the best of his or her knowledge and belief that for each application for a Federal assistance exceeding \$100,000: (1) No Federal appropriated funds have been or will be paid, by or on behalf of the Applicant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress pertaining to the award of any Federal assistance, or the extension, continuation, renewal, amendment, or modification of any Federal assistance agreement; and (2) If any funds other than Federal appropriated funds have been or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any application to FTA for Federal assistance, the Applicant assures that it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," including the information required by the form's instructions, which may be amended to omit such information as permitted by 31 U.S.C. 1352.

B. The Applicant understands that this certification is a material representation of fact upon which reliance is placed and that submission of this certification is a prerequisite for providing Federal assistance for a transaction covered by 31 U.S.C. 1352. The Applicant also understands that any person who fails to file a required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**III. EFFECTS ON PRIVATE MASS TRANSPORTATION COMPANIES**

An Applicant that is a state or local government seeking Federal assistance under 49 U.S.C. chapter 53 to acquire property or an interest in property of a private mass transportation company or operate mass transportation equipment or a facility in competition with or in addition to transportation service provided by an existing mass transportation company must provide the following certification. FTA may not award that Federal assistance until the Applicant provides this certification by selecting Category III on the Signature Page.

As required by 49 U.S.C. 5323(a)(1)(B) or 5323(a)(1)(C), the Applicant certifies that before it acquires property or an interest in property of a private mass transportation company or operates mass transportation equipment or a

**EXAMPLE ONLY**

facility in competition with or in addition to transportation service provided by an existing mass transportation company it has or will have:

- A. Provided for the participation of private mass transportation companies to the maximum extent feasible; and
- B. Paid or will pay just compensation under state or local law to a private mass transportation company for its franchises or property acquired.

**IV. PUBLIC HEARING CERTIFICATION FOR A CAPITAL PROJECT  
(EXCEPT URBANIZED AREA FORMULA PROJECTS) THAT WILL  
SUBSTANTIALLY AFFECT A COMMUNITY OR ITS TRANSIT SERVICE**

**An Applicant seeking Federal assistance for a capital project authorized by 49 U.S.C. chapter 53 (except Urbanized Area Formula Program assistance), that will substantially affect a community or its transit service must provide the following certification. FTA may not award that Federal assistance until the Applicant provides this certification by selecting Category IV on the Signature Page.**

As required by 49 U.S.C. 5323(b), the Applicant certifies that it has, or before submitting its application, will have:

- A. Provided an adequate opportunity for a public hearing with adequate prior notice of the proposed project published in a newspaper of general circulation in the geographic area to be served;
- B. Held that hearing and provided FTA a transcript or detailed report summarizing the issues and responses, unless no one with a significant economic, social, or environmental interest requests a hearing;
- C. Considered the economic, social, and environmental effects of the project; and
- D. Determined the project to be consistent with official plans for developing the urban area.

**V. CERTIFICATION OF PRE-AWARD AND POST-DELIVERY ROLLING STOCK REVIEWS  
REQUIRED FOR EACH APPLICANT SEEKING TO PURCHASE  
ROLLING STOCK FINANCED WITH FEDERAL ASSISTANCE AWARDED BY FTA**

**An Applicant seeking FTA assistance to purchase rolling stock must make the following certification. FTA may not provide assistance for any rolling stock acquisition until the Applicant provides this certification by selecting Category V on the Signature Page.**

As required by 49 U.S.C. 5323(l), and implementing FTA regulations at 49 CFR 663.7, the Applicant certifies that it will comply with the requirements of 49 CFR part 663, in the course of purchasing revenue service rolling stock. Among other things, the Applicant will conduct or cause to be conducted the prescribed pre-award and post-delivery reviews, and will maintain on file the certifications required by 49 CFR part 663, subparts B, C, and D.

**VI. BUS TESTING CERTIFICATION REQUIRED FOR NEW BUSES**

**An Applicant seeking FTA assistance to acquire new buses must make the following certification. FTA may not provide assistance for the acquisition of new buses until the Applicant provides this certification by selecting Category VI on the Signature Page.**

As required by FTA regulations, "Bus Testing," at 49 CFR 665.7, the Applicant certifies that before expending any Federal assistance to acquire the first bus of any new bus model or any bus model with a new major change in configuration or components or authorizing final acceptance of that bus (as described in 49 CFR part 665):

**EXAMPLE ONLY**

- A. The model of the bus will have been tested at a bus testing facility approved by FTA; and
- B. It will have received a copy of the test report prepared on the bus model.

**VII. CHARTER SERVICE AGREEMENT**

**An Applicant seeking FTA assistance to acquire or operate transportation equipment or facilities acquired with Federal assistance authorized by 49 U.S.C. chapter 53 (except 49 U.S.C. 5310) or Title 23, U.S.C. must enter into the following charter service agreement. FTA may not provide assistance for those projects until the Applicant enters into this agreement by selecting Category VII on the Signature Page.**

- A. As required by 49 U.S.C. 5323(d) and FTA regulations, "Charter Service," at 49 CFR 604.7, the Applicant agrees that it and its recipients will: (1) provide charter service that uses equipment or facilities acquired with Federal assistance authorized for 49 U.S.C. 5307, 5309, or 5311 or Title 23 U.S.C., only to the extent that there are no private charter service operators willing and able to provide the charter service that it or its recipients desire to provide, unless one or more of the exceptions in 49 CFR 604.9 applies, and (2) comply with the provisions of 49 CFR part 604 before they provide any charter service using equipment or facilities acquired with Federal assistance authorized for the above statutes.
- B. The Applicant understands that the requirements of 49 CFR part 604 will apply to any charter service provided, the definitions in 49 CFR part 604 apply to this agreement, and violation of this agreement may require corrective measures and the imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

**VIII. SCHOOL TRANSPORTATION AGREEMENT**

**An Applicant seeking FTA assistance to acquire or operate transportation facilities and equipment acquired with Federal assistance authorized by 49 U.S.C. chapter 53 must agree as follows. FTA may not provide assistance for transportation facilities until the Applicant enters into this Agreement by selecting Category VIII on the Signature Page.**

- A. As required by 49 U.S.C. 5323(f) and FTA regulations, "School Bus Operations," at 49 CFR 605.14, the Applicant agrees that it and all its recipients will: (1) engage in school transportation operations in competition with private school transportation operators only to the extent permitted by an exception provided by 49 U.S.C. 5323(f), and implementing regulations, and  
(2) comply with the requirements of 49 CFR part 605 before providing any school transportation using equipment or facilities acquired with Federal assistance authorized by 49 U.S.C. chapter 53 or Title 23 U.S.C. awarded by FTA for transportation projects.
- B. The Applicant understands that the requirements of 49 CFR part 605 will apply to any school transportation it provides, the definitions of 49 CFR part 605 apply to this school transportation agreement, and a violation of this agreement may require corrective measures and the imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

**IX. CERTIFICATION REQUIRED FOR THE DIRECT AWARD OF FTA ASSISTANCE TO AN APPLICANT FOR ITS DEMAND RESPONSIVE SERVICE**

**An Applicant seeking direct Federal assistance to support its demand responsive service must provide the following certification. FTA may not award Federal assistance directly to an Applicant to support its demand responsive service until the Applicant provides this certification by selecting Category IX on the Signature Page.**

**EXAMPLE ONLY**

As required by U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," at 49 CFR 37.77, the Applicant certifies that its demand responsive service offered to persons with disabilities, including persons who use wheelchairs, is equivalent to the level and quality of service offered to persons without disabilities. When viewed in its entirety, its service for persons with disabilities is provided in the most integrated setting feasible and is equivalent with respect to: (1) response time, (2) fares, (3) geographic service area, (4) hours and days of service, (5) restrictions on trip purpose, (6) availability of information and reservation capability, and (7) constraints on capacity or service availability.

**X. SUBSTANCE ABUSE CERTIFICATIONS**

**If the Applicant is required by Federal regulations to provide the following substance abuse certifications, FTA may not provide Federal assistance until the Applicant has selected Category X on the Signature Page.**

**A. Alcohol Testing Certification**

As required by FTA regulations, "Prevention of Alcohol Misuse in Transit Operations," at 49 CFR 654.83, the Applicant certifies that it has established and implemented an alcohol misuse prevention program complying with the requirements of 49 CFR part 654; and if the Applicant has employees regulated by the Federal Railroad Administration (FRA), the Applicant also certifies that it has for those employees an alcohol misuse prevention program complying with the requirements of FRA's regulations, "Control of Alcohol and Drug Use," 49 CFR part 219.

**B. Anti-Drug Program Certification**

As required by FTA regulations, "Prevention of Prohibited Drug Use in Transit Operations," at 49 CFR 653.83, the Applicant certifies that it has established and implemented an anti-drug program and has conducted employee training complying with the requirements of 49 CFR part 653; and if the Applicant has employees regulated by the Federal Railroad Administration (FRA), the Applicant also certifies that it has for those employees an anti-drug program complying with the requirements of FRA's regulations, "Control of Alcohol and Drug Use," 49 CFR part 219.

**XI. ASSURANCES REQUIRED FOR PROJECTS INVOLVING REAL PROPERTY**

**The Applicant must provide the following assurances in connection with each application for Federal assistance to acquire (purchase or lease) real property. FTA may not award Federal assistance for a project involving real property until the Applicant provides these assurances shown by selecting Category XI on the Signature Page.**

**A. Relocation and Real Property Acquisition Assurance**

As required by U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," at 49 CFR 24.4, and sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Relocation Act), 42 U.S.C. 4630 and 4655, the Applicant assures that it has the requisite authority under applicable state and local law and will comply with the requirements of the Uniform Relocation Act, 42 U.S.C.

**EXAMPLE ONLY**

4601 *et seq.*, and U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR part 24 including, but not limited to the following:

- (1) The Applicant will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24;
- (2) The Applicant will provide fair and reasonable relocation payments and assistance required by 42 U.S.C. 4622, 4623, and 4624; 49 CFR part 24; and any applicable FTA procedures, to or for families, individuals, partnerships, corporations or associations displaced as a result of any project financed with FTA assistance;
- (3) The Applicant will provide relocation assistance programs offering the services described in 42 U.S.C. 4625 to such displaced families, individuals, partnerships, corporations or associations in the manner provided in 49 CFR part 24 and FTA procedures;
- (4) Within a reasonable time before displacement, the Applicant will make available comparable replacement dwellings to displaced families and individuals as required by 42 U.S.C. 4625(c)(3);
- (5) The Applicant will carry out the relocation process in such a manner as to provide displaced persons with uniform and consistent services, and will make available replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin; and
- (6) In acquiring real property, the Applicant will be guided to the greatest extent practicable under state law, by the real property acquisition policies of 42 U.S.C. 4651 and 4652;
- (7) The Applicant will pay or reimburse property owners for necessary expenses as specified in 42 U.S.C. 4653 and 4654, understanding that FTA will participate in the Applicant's costs of providing those payments and that assistance for the project as required by 42 U.S.C. 4631;
- (8) The Applicant will execute such amendments to third party contracts and subagreements financed with FTA assistance and execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement the assurances provided herein; and
- (9) The Applicant agrees to make these assurances part of or incorporate them by reference into any third party contract or subagreement, or any amendments thereto, relating to any project financed by FTA involving relocation or land acquisition and provide in any affected document that these relocation and land acquisition provisions shall supersede any conflicting provisions.

**B. Flood Insurance Coverage**

As required by section 102(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4012a(a), the Applicant assures that in the course of implementing each project financed with Federal assistance, the Applicant will obtain appropriate insurance for any real estate acquired or construction undertaken thereon within any special flood hazard area as identified by the Federal Insurance Administrator. The Applicant understands that such insurance is available in the participating area through the U.S. Federal Emergency Management Agency's National Flood Insurance Program.

**C. Seismic Assurance**

As required by U.S. DOT regulations, "Seismic Safety," 49 CFR 41.117(d), the Applicant assures that before it accepts delivery of any building financed with Federal assistance provided by FTA, the Applicant will obtain a certificate of compliance with the seismic design and construction requirements of 49 CFR part 41.



**EXAMPLE ONLY****XII. CERTIFICATIONS FOR THE URBANIZED AREA FORMULA PROGRAM**

Each Applicant to FTA for Urbanized Area Formula Program assistance authorized for 49 U.S.C. 5307 must provide the following certifications in connection with its application. FTA may not award Urbanized Area Formula Program assistance to the Applicant until the Applicant provides these certifications and assurances shown by selecting Category XII on the Signature Page.

**A. Certifications Required by Statute**

As required by 49 U.S.C. 5307(d)(1)(A) through (J), the Applicant certifies that:

- (1) It has or will have the legal, financial, and technical capacity to carry out the proposed program of projects;
- (2) It has or will have satisfactory continuing control over the use of the equipment and facilities;
- (3) It will adequately maintain the equipment and facilities;
- (4) It will ensure that the elderly and handicapped persons, or any person presenting a Medicare card issued to himself or herself under title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*), will be charged during non-peak hours for transportation using or involving a facility or equipment of a project financed with Federal assistance authorized for 49 U.S.C. 5307 not more than 50 percent of the peak hour fare;
- (5) In carrying out a procurement financed with Federal assistance authorized for the Urbanized Area Formula Program at 49 U.S.C. 5307, it will use competitive procurement (as defined or approved by the Secretary), it will not use a procurement using exclusionary or discriminatory specifications, and it will comply with applicable Buy America laws in carrying out a procurement;
- (6) It has complied or will comply with the requirements of 49 U.S.C. 5307(c); specifically, it has or before submitting its application it will: (a) make available to the public information on amounts available for the Urbanized Area Formula Program at 49 U.S.C. 5307 and the program of projects it proposes to undertake with those funds; (b) develop, in consultation with interested parties, including private transportation providers, a proposed program of projects for activities to be financed; (c) publish a proposed program of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the performance of the Applicant; (d) provide an opportunity for a public hearing to obtain the views of citizens on the proposed program of projects; and (e) ensure that the proposed program of projects provides for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal Government source; (f) consider comments and views received, especially those of private transportation providers, in preparing the final program of projects; and (g) make the final program of projects available to the public;
- (7) It has or will have available and will provide the amount of funds required by 49 U.S.C. 5307(e) and applicable FTA policy (specifying Federal and local shares of project costs);
- (8) It will comply with: (a) 49 U.S.C. 5301(a) (requirements to develop transportation systems that maximize mobility and minimize fuel consumption and air pollution); (b) 49 U.S.C. 5301(d) (requirements for transportation of the elderly and persons with disabilities); (c) 49 U.S.C. 5303 through 5306 (planning requirements); and (d) 49 U.S.C. 5310(a) through (d) (programs for the elderly and persons with disabilities);
- (9) It has a locally developed process to solicit and consider public comment before raising fares or implementing a major reduction of transportation; and
- (10) As required by 49 U.S.C. 5307(d)(1)(J), it will expend at least one percent of the amount of Federal assistance it receives for this fiscal year apportioned by 49 U.S.C. 5336 for transit security projects, including increased lighting in or adjacent to a transit system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned transit system; unless it has decided that it is not necessary to expend one percent of that Federal assistance this fiscal year for transit security projects.

**EXAMPLE ONLY**

**B. Certification Required for Capital Leasing**

As required by FTA regulations, "Capital Leases," 49 CFR at 639.15(b)(1) and 639.21, to the extent that the Applicant uses Federal assistance authorized for 49 U.S.C. 5307 to acquire any capital asset by lease, the Applicant certifies that:

- (1) It will not use Federal assistance authorized for 49 U.S.C. 5307 to finance the cost of leasing any capital asset until it undertakes calculations demonstrating that it is more cost-effective to lease the capital asset than to purchase or construct similar assets;
- (2) It will complete these calculations before entering into the lease or before receiving a capital grant for the asset, whichever is later; and
- (3) It will not enter into a capital lease for which FTA can only provide incremental funding unless it has the financial capacity to meet its future obligations under the lease in the event Federal assistance is not available for capital projects in subsequent years.

**C. Certification Required for Sole Source Purchase of Associated Capital Maintenance Item**

As required by 49 U.S.C. 5325(c), to the extent that the Applicant procures an associated capital maintenance item under the authority of 49 U.S.C. 5307(b)(1), the Applicant certifies that it will use competition to procure an associated capital maintenance item unless the manufacturer or supplier of that item is the only source for the item and the price of the item is no more than the price similar customers pay for the item, and maintain sufficient records pertaining to each such procurement on file easily retrievable for FTA inspection.

**XIII. CERTIFICATIONS AND ASSURANCES FOR  
THE ELDERLY AND PERSONS WITH DISABILITIES PROGRAM**

**An Applicant that intends to administer, on behalf of the state, the Elderly and Persons with Disabilities Program must provide the following certifications and assurances. FTA may not award assistance for the Elderly and Persons with Disabilities Program until the Applicant provides these certifications and assurances by selecting Category XIII on the Signature Page.**

Based on its own knowledge and, as necessary, on information submitted by the subrecipient, the Applicant administering on behalf of the state the Elderly and Persons with Disabilities Program authorized by 49 U.S.C. 5310 certifies and assures that the following requirements and conditions will be fulfilled:

- A. The state organization serving as the Applicant and each subrecipient has or will have the necessary legal, financial, and managerial capability to apply for, receive, and disburse Federal assistance authorized for 49 U.S.C. 5310; and to implement and manage the project.
- B. The state assures that each subrecipient either is recognized under state law as a private nonprofit organization with the legal capability to contract with the state to carry out the proposed project, or is a public body that has met the statutory requirements to receive Federal assistance authorized for 49 U.S.C. 5310.
- C. The subrecipient's application for 49 U.S.C. 5310 assistance contains information from which the state concludes that the transit service provided or offered to be provided by existing public or private transit operators is unavailable, insufficient, or inappropriate to meet the special needs of the elderly and persons with disabilities.
- D. The state assures that sufficient non-Federal funds have been or will be committed to provide the required local share.
- E. The subrecipient has, or will have by the time of delivery, sufficient funds to operate and maintain the vehicles and equipment purchased with Federal assistance awarded for this project.

**EXAMPLE ONLY**

F. The state assures that before issuing the state's formal approval of a project, its Elderly and Persons with Disabilities Formula Program is included in the Statewide Transportation Improvement Program as required by 23 U.S.C. 135; all projects in urbanized areas recommended for approval are included in the annual element of the metropolitan Transportation Improvement Program in which the subrecipient is located; and it has obtained from any public body that is a prospective subrecipient of capital assistance a certification that an opportunity for a public hearing has been provided.

G. The subrecipient has, to the maximum extent feasible, coordinated with other transportation providers and users, including social service agencies authorized to purchase transit service.

H. The subrecipient is in compliance with all applicable civil rights requirements, and has signed the Nondiscrimination Assurance. (Category I.F., "Certifications and Assurances Required of Each Applicant.")

I. The subrecipient will comply with applicable requirements of U.S. DOT regulations on participation of disadvantaged business enterprises in U.S. DOT programs.

J. The state will comply with all existing Federal requirements regarding transportation of elderly persons and persons with disabilities. Each subrecipient has provided to the state an Assurance of Nondiscrimination on the Basis of Disability, as set forth in the Certifications and Assurances required of each applicant for FTA assistance at Category 1.G of this document. If non-accessible vehicles are being purchased for use by a public entity in demand responsive service for the general public, the state will obtain from the subrecipient a "Certification of Equivalent Service," which states that when viewed in its entirety the public entity's demand responsive service offered to persons with disabilities, including persons who use wheelchairs, meets the standard of equivalent service set forth in 40 C.F.R. section 37.77(c).

K. The subrecipient has certified to the state that it will comply with applicable provisions of 49 CFR part 605 pertaining to school transportation operations. (See Category VIII, "School Transportation Agreement.")

L. Unless otherwise noted, each of the subrecipient's projects qualifies for a categorical exclusion and does not require further environmental approvals, as described in the joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," at 23 CFR 771.117(c). The state certifies that financial assistance will not be provided for any project that does not qualify for a categorical exclusion described in 23 CFR 771.117(c) until FTA has made the required environmental finding. The state further certifies that no financial assistance will be provided for a project requiring a conformity finding in accordance with the Environmental Protection Agency's Clean Air Conformity regulations at 40 CFR parts 51 and 93, until FTA makes the required conformity finding.

M. The subrecipient has submitted (or will submit) all applicable certifications and assurances currently required, including, but not limited to: a certification that its procurements and procurement system will comply with all applicable requirements imposed by Federal laws, executive orders, or regulations and the requirements of FTA Circular 4220.1D, "Third Party Contracting Requirements," and other implementing requirements FTA may issue; a certification that its project provides for the participation of private mass transportation companies to the maximum extent feasible; a certification it has paid or will pay just compensation under state or local law to each private mass transportation company for its franchise or property acquired under the project; a nonprocurement suspension and debarment certification; a bus testing certification for new models; a pre-award and post-delivery review certification; and a lobbying certification for each application exceeding \$100,000. Certifications and assurances applicable to and submitted by the subrecipient should be substantially similar to the text of parallel certifications and assurances text of Categories I-XI of this document, but modified as necessary to accommodate the subrecipient's circumstances.

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

O. The state recognizes FTA's authority to conduct audits and reviews to verify compliance with the foregoing requirements and stipulations.-

**EXAMPLE ONLY**

**XIV. CERTIFICATIONS AND ASSURANCES FOR THE  
NONURBANIZED AREA FORMULA PROGRAM**

**An Applicant that intends to administer, on behalf of the state, the Nonurbanized Area Formula Program must provide the following certifications and assurances. FTA may not award Nonurbanized Area Formula Program assistance to the Applicant until the Applicant provides these certifications and assurances shown by selecting Category XIV on the Signature Page.**

Based on its own knowledge and, as necessary, on information submitted by the subrecipient, the Applicant administering on behalf of the state the Nonurbanized Area Formula Program authorized by 49 U.S.C. 5311 certifies and assures that the following requirements and conditions will be fulfilled:

- A. The state organization serving as the Applicant and each subrecipient has or will have the necessary legal, financial, and managerial capability to apply for, receive and disburse Federal assistance authorized for 49 U.S.C. 5311; and to implement and manage the project.
- B. The state assures that sufficient non-Federal funds have been or will be committed to provide the required local share.
- C. The subrecipient has, or will have by the time of delivery, sufficient funds to operate and maintain the vehicles and equipment purchased with Federal assistance authorized for this project.
- D. The state assures that before issuing the state's formal approval of the project, its Nonurbanized Area Formula Program is included in the Statewide Transportation Improvement Program as required by 23 U.S.C. 135; to the extent applicable, projects are included in a metropolitan Transportation Improvement Program, and it has obtained from the prospective subrecipient of capital assistance a certification that an opportunity for a public hearing has been provided.
- E. The state has provided for a fair and equitable distribution of Federal assistance authorized for 49 U.S.C. 5311 within the state, including Indian reservations within the state.
- F. The subrecipient has, to the maximum extent feasible, coordinated with other transportation providers and users, including social service agencies authorized to purchase transit service.
- G. The subrecipient is in compliance with all applicable civil rights requirements, and has signed the Nondiscrimination Assurance. (See Category I.F, "Certifications and Assurances Required of Each Applicant.")
- H. The subrecipient will comply with applicable requirements of U.S. DOT regulations on participation of disadvantaged business enterprise in U.S. DOT programs.
- I. The state will comply with all existing Federal requirements regarding transportation of elderly persons and persons with disabilities. Each subrecipient has provided to the state an Assurance of Nondiscrimination on the Basis of Disability, as set forth in the Certifications and Assurances required of each applicant for FTA assistance at Category I.G of this document. If non-accessible vehicles are being purchased for use by a public entity in demand responsive service for the general public, the state will obtain from the subrecipient a "Certification of Equivalent Service," which states that when viewed in its entirety the public entity's demand responsive service offered to persons with disabilities, including persons who use wheelchairs, meets the standard of equivalent service set forth in 40 C.F.R. section 37.77(c).
- J. The subrecipient has complied with the transit employee protective provisions of 49 U.S.C. 5333(b), by one of the following actions: (1) signing the Special Warranty for the Nonurbanized Area Formula Program, (2) agreeing to alternative comparable arrangements approved by the Department of Labor (DOL), or (3) obtaining a waiver from DOL; and the state has certified the subrecipient's compliance to DOL.
- K. The subrecipient has certified to the state that it will comply with 49 CFR part 604 in the provision of any charter service provided with equipment or facilities acquired with FTA assistance, and will also comply with applicable provisions of 49 CFR part 605 pertaining to school transportation operations. (See Category VII, "Charter Service Agreement," and Category VIII, "School Transportation Agreement.")

**EXAMPLE ONLY**

L. Unless otherwise noted, each of the subrecipient's projects qualifies for a categorical exclusion and does not require further environmental approvals, as described in the joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," at 23 CFR 771.117(c). The state certifies that financial assistance will not be provided for any project that does not qualify for a categorical exclusion described in 23 CFR 771.117(c) until FTA has made the required environmental finding. The state further certifies that no financial assistance will be provided for a project requiring a conformity finding in accordance with the Environmental Protection Agency's Clean Air Conformity regulations at 40 CFR parts 51 and 93, until FTA makes the required conformity finding.

M. The subrecipient has submitted (or will submit) all applicable certifications and assurances currently required, including but not limited to: a certification that its procurements and procurement system will comply with all applicable requirements imposed by Federal laws, executive orders, or regulations and the requirements of FTA Circular 4220.1D, "Third Party Contracting Requirements," and other implementing requirements FTA may issue, a certification that its project provides for the participation of private mass transportation companies to the maximum extent feasible; a certification it has paid or will pay just compensation under state or local law to each private mass transportation company for its franchise or property acquired under the project; a nonprocurement suspension and debarment certification; a bus testing certification for new bus models; a pre-award and post-delivery review certification; a lobbying certification for each application exceeding \$100,000; and if required by FTA, an anti-drug program certification and an alcohol testing certification. Certifications and assurances applicable to and submitted by the subrecipient should be substantially similar to the text of parallel certifications and assurances text of Categories I-XI of this document, but modified as necessary to accommodate the subrecipient's circumstances.

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

O. The state recognizes FTA's authority to conduct audits and reviews to verify compliance with the foregoing requirements and stipulations.

P. As required by 49 U.S.C. 5311(f), it will expend not less than fifteen percent of the Federal assistance authorized for 49 U.S.C. 5311(f) it receives during this fiscal year to carry out a program to develop and support intercity bus transportation, unless the chief executive officer of the state or his or her duly authorized designee certifies that the intercity bus service needs of the state are being adequately met.

**XV. CERTIFICATIONS AND ASSURANCES FOR  
THE STATE INFRASTRUCTURE BANK PROGRAM**

**A state Applicant for a grant of Federal assistance for deposit in the Transit Account of the State Infrastructure Bank (SIB) within that state must provide the following certifications and assurances. The Federal Transit Administration (FTA) may not award Federal assistance to capitalize a SIB until the state Applicant provides these certifications and assurances.**

Based on its own knowledge and, as necessary, on requisite information submitted by the participating parties, the state Applicant for Federal assistance for the Transit Account of its state SIB program, authorized by section 350 of the National Highway System Designation Act of 1995 (NHS Act), as amended, 23 U.S.C. 101 note, certifies and assures that the following requirements and conditions will be fulfilled pertaining to any project financed with Federal assistance derived from the Transit Account of the SIB:

A. The state organization serving as the Applicant (state) agrees and assures the agreement of the SIB and each recipient of Federal assistance derived from the Transit Account of the SIB within the state (subrecipient) that each Project financed with Federal assistance derived from the Transit Account will be administered in accordance with: (1) the requirements of section 350 of the National Highway System Designation Act of 1995 (NHS Act), Pub. L. 104-59, Nov. 28, 1995, 23 U.S.C. 101 note, (2) the provisions of FTA's NHS Guidelines, and any amendments thereto, (3) the provisions of FHWA and FTA Cooperative Agreement with the state to establish the state's SIB program, and (4) the provisions of the FTA Grant Agreement with the state obligating Federal assistance for the Transit Account of the SIB, except that any provision of the Federal Transit Administration Master Agreement incorporated by reference into that Grant Agreement that conflicts with any provision of FTA's NHS Guidelines, the provisions of the Cooperative Agreement establishing the SIB program within the state, or the text within the Grant Agreement will not apply.

EXAMPLE ONLY

- B. The state agrees to comply with and assures the compliance of the SIB and each subrecipient of all applicable requirements for the SIB program, as those requirements may be amended from time to time.
- C. The state assures that the SIB will provide Federal assistance from its Transit Account only for transit capital projects eligible under section 350 of the NHS Act, and that those projects will fulfill all requirements imposed on comparable capital transit projects financed by FTA.
- D. The state understands that the total amount of funds to be awarded for a Grant Agreement will not be immediately available for draw down. Consequently, the state assures that it will limit the amount of Federal assistance it draws down for deposit in the Transit Account of its SIB to amounts that do not exceed the limitations specified in the underlying Grant Agreement or the Approved Project Budget for that Grant Agreement.
- E. The state assures that each subrecipient has or will have the necessary legal, financial, and managerial capability to apply for, receive, and disburse Federal assistance authorized by Federal statute for use in the Transit Account of the SIB, and to implement, manage, operate, and maintain the project and project property for which such assistance will support.
- F. The state assures that the SIB will provide Federal assistance derived from the Transit Account only to a subrecipient that is either a public or private entity recognized under state law as having the legal capability to contract with the state to carry out its proposed project.
- G. The state assures that sufficient non-Federal funds have been or will be committed to provide the required local share.
- H. The state assures that the SIB will enter into a written agreement with each subrecipient stating the terms and conditions of assistance by which the project will be undertaken and completed, including specific provisions that any security or debt financing instrument the SIB may issue will contain an express statement that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.
- I. The state assures that before the SIB enters into an agreement with a subrecipient under which Federal assistance within the Transit Account of the SIB will be disbursed to the subrecipient, the subrecipient's project is included in the Statewide Transportation Improvement Program; all projects in urbanized areas recommended for approval are included in the annual element of the metropolitan Transportation Improvement Program in which the subrecipient is located; and it has obtained from each subrecipient of capital assistance that is also a public body a certification that an opportunity for a public hearing has been provided.
- J. The state assures that the subrecipient has, to the maximum extent feasible, coordinated with other transportation providers and users, and other interested parties within the area.
- K. The state assures that the subrecipient is in compliance with all applicable civil rights requirements, and has signed the Nondiscrimination Assurance. (See Category I.F, "Certifications and Assurances Required of Each Applicant," of the Federal Fiscal Year 1998 Certifications and Assurances for the Federal Transit Administration Programs.)
- L. The state assures that the subrecipient will comply with applicable requirements of U.S. DOT regulations on participation of disadvantaged business enterprises in U.S. DOT programs.
- M. To the extent applicable, the state will comply with all existing Federal requirements regarding transportation of elderly persons and persons with disabilities. The state assures that the SIB will provide to the state an Assurance of Nondiscrimination on the Basis of Disability from each subrecipient, as set forth in the Certifications and Assurances required of each Applicant for FTA assistance. (See Category I.G, "Certifications and Assurances Required of Each Applicant," of the Federal Fiscal Year 1998 Certifications and Assurances for the Federal Transit Administration Programs.) If non-accessible vehicles are being purchased for use by a public entity in demand responsive service for the general public, the state will obtain from the subrecipient a "Certification of Equivalent Service," which states that the public entity's demand responsive service offered to persons with disabilities, including persons who use wheelchairs, is equivalent to the level and quality of service the public entity offers to persons without disabilities. (See Category IX, "Certifications Required for the Direct Award of FTA Assistance to an Applicant for its Demand Responsive Service," of the Federal Fiscal Year 1998 Certifications and Assurances for the Federal Transit Administration Programs.) This "Certification of Equivalent Service" must also state that the public entity's demand responsive service, when viewed in its entirety, is provided in the most integrated setting feasible and has equivalent: (1) response time, (2) fares, (3) geographic service area, (4) hours and days of service, (5) restrictions or restraints on trip purpose, (6) availability of information and reservation capability, and (7) constraints on capacity or service availability.
- N. The state assures that before the SIB provides Federal assistance from the Transit Account, each subrecipient will have complied with the applicable transit employee protective provisions of 49 U.S.C. 5333(b) as required for that subrecipient and its project.

10/01/98

**EXAMPLE ONLY**

O. The state assures that each subrecipient has certified or will certify to the state that it will comply with 49 CFR part 604 in the provision of any charter service provided with equipment or facilities acquired with FTA assistance, and will also comply with applicable provisions of 49 CFR part 605 pertaining to school transportation operations. (See Category VII, "Charter Service Agreement," and Category VIII, "School Transportation Agreement," of the Federal Fiscal Year 1998 Certifications and Assurances for the Federal Transit Administration Programs.)

P. Unless otherwise noted, the state assures that each of the subrecipient's projects qualifies for a categorical exclusion and does not require further environmental approvals, as described in Q. Unless otherwise noted, the state assures that each of the subrecipient's projects qualifies for a categorical exclusion and does not require further environmental approvals, as described in the joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," at 23 CFR 771.117(c). The state certifies that the SIB will not provide financial assistance from the Transit Account for any project that does not qualify for a categorical exclusion described in 23 CFR 771.117(c) until FTA has made the required environmental finding. The state further certifies that the SIB will provide no financial assistance from its Transit Account for a project requiring a conformity finding in accordance with the Environmental Protection Agency's Clean Air Conformity regulations at 40 CFR parts 51 and 93, until FTA makes the required conformity finding.

Q. The state assures that the subrecipient has submitted (or will submit), when applicable, all certifications and assurances currently required, including, but not limited to: a certification that its procurements and procurement system will comply with all applicable requirements imposed by Federal laws, executive orders, or regulations and the requirements of FTA Circular 4220.1D, "Third Party Contracting Requirements," and other implementing requirements FTA may issue; a certification that its project provides for the participation of private mass transportation companies to the maximum extent feasible; a certification it has paid or will pay just compensation under state or local law to each private mass transportation company for its franchise or property acquired under the project; a nonprocurement suspension and debarment certification; a bus testing certification for new models; a pre-award and post-delivery review certification; and a lobbying certification for each application exceeding \$100,000; assurances FTA requires for projects involving real property; and if required by FTA, an anti-drug program certification and an alcohol testing certification. Certifications and assurances applicable to and submitted by the subrecipient should be substantially similar to the text of parallel certifications and assurances of Categories I-XI of the Federal Fiscal Year 1998 Certifications and Assurances for the Federal Transit Administration Programs, but modified as necessary to accommodate the SIB and the subrecipient's circumstances.

R. The state agrees and assures that the SIB and each subrecipient will agree to permit FTA, U.S. DOT, and the Comptroller General to conduct audits to verify compliance with the foregoing requirements and stipulations.

##

Selection and Signature Pages follow.

**EXAMPLE ONLY**

**Appendix A to Certifications and Assurances  
FEDERAL FY 19xx CERTIFICATIONS AND ASSURANCES FOR FTA ASSISTANCE**

Name of Applicant: \_\_\_\_\_

The Applicant agrees to comply with applicable requirements of Categories I - XV. \_\_\_\_  
(The Applicant may make this selection in lieu of individual selections below.)

OR

The Applicant agrees to comply with the applicable requirements of the following categories it has selected:

- I. Certifications and Assurances Required of Each Applicant. \_\_\_\_\_
- II. Lobbying Certification. \_\_\_\_\_
- III. Effects on Private Mass Transportation Companies. \_\_\_\_\_
- IV. Public Hearing Certification for Major Projects with Substantial Impacts. \_\_\_\_\_
- V. Certification for the Purchase of Rolling Stock. \_\_\_\_\_
- VI. Bus Testing Certification. \_\_\_\_\_
- VII. Charter Service Agreement. \_\_\_\_\_
- VIII. School Transportation Agreement. \_\_\_\_\_
- IX. Certification for Demand Responsive Service. \_\_\_\_\_
- X. Substance Abuse Certifications. \_\_\_\_\_
- XI. Assurances Projects Involving Real Property. \_\_\_\_\_
- XII. Certifications for the Urbanized Area Formula Program. \_\_\_\_\_
- XIII. Certifications for the Elderly and Persons with Disabilities Program. \_\_\_\_\_
- XIV. Certifications for the Nonurbanized Area Formula Program. \_\_\_\_\_
- XV. Certifications for the State Infrastructure Bank (SIB) Program \_\_\_\_\_

(Both sides of this Signature Page must be appropriately completed and signed where indicated.)



**EXAMPLE ONLY**

**FEDERAL FISCAL YEAR 19xx FTA CERTIFICATIONS AND ASSURANCES**

Required of all Applicants for FTA financial assistance, and  
all FTA Grantees with an active project receiving capital program or formula program assistance.

Name of Applicant: \_\_\_\_\_

Name and Relationship of Authorized Representative: \_\_\_\_\_

BY SIGNING BELOW I, \_\_\_\_\_ (name), on behalf of the Applicant, declare that the Applicant has duly authorized me to make these certifications and assurances and bind the Applicant's compliance. Thus, the Applicant agrees to comply with all Federal statutes, regulations, executive orders, and administrative guidance required for each application it makes to the Federal Transit Administration (FTA) in Federal Fiscal Year 19xx.

FTA intends that the certifications and assurances the Applicant selects on the other side of this document, as representative of the certifications and assurances in Appendix A, should apply, as required, to each project for which the Applicant seeks now, or may later, seek FTA assistance during Federal Fiscal Year 1998.

The Applicant affirms the truthfulness and accuracy of the certifications and assurances it has made in the statements submitted herein with this document and any other submission made to FTA, and acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801 et seq., as implemented by U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31 apply to any certification, assurance or submission made to FTA. The criminal fraud provisions of 18 U.S.C. 1001 apply to any certification, assurance, or submission made in connection with the Urbanized Area Formula Program, 49 U.S.C. 5307, and may apply to any other certification, assurance, or submission made in connection with any other program administered by FTA.

In signing this document, I declare under penalties of perjury that the foregoing certifications and assurances, and any other statements made by me on behalf of the Applicant are true and correct.

Date: \_\_\_\_\_

a. \_\_\_\_\_

Authorized Representative of Applicant

**AFFIRMATION OF APPLICANT'S ATTORNEY**

for \_\_\_\_\_ (Name of Applicant)

As the undersigned legal counsel for the above named Applicant, I hereby affirm that the Applicant has authority under state and local law to make and comply with the certifications and assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the certifications and assurances have been legally made and constitute legal and binding obligations on the Applicant.

I further affirm that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these certifications and assurances, or of the performance of the project. Furthermore, if I become aware of circumstances that change the accuracy of the foregoing statements, I will notify the Applicant and FTA promptly.

**EXAMPLE ONLY**

Date: \_\_\_\_\_

b. \_\_\_\_\_

Applicant's Attorney

An attorney for the Applicant must provide an affirmation of the Applicant's legal capacity, unless the Applicant seeks only an FTA university and research training grant authorized by 49 U.S.C. 5312(b).

In addition, an attorney for a Capital Program Grantee or Formula Program Grantee with an active project must provide an affirmation of the Grantee's legal capacity.

## APPENDIX H

### INTEREST AS AN ELIGIBLE CAPITAL COST

INTEREST AS AN ELIGIBLE COST. There are six areas in which interest is an eligible project cost for FTA Urbanized Area Formula Program assistance, with certain limitations.

- a. Bond Interest in Advance Capital Project Authority. In a situation in which a grantee has obligated all Federal funds apportioned to it in a capital project and proceeds to continue to carry out a portion of a project without FTA funds ("the portion") but with advance capital project authority, 49 U.S.C. Section 5307(g)(1) and (3) permits FTA to pay for any interest payable by the grantee and earned by the bondholder on bonds issued by the grantee to the extent that the proceeds of the bonds have actually been expended in carrying out the portion. The conditions associated with advance capital project authority are discussed in paragraph 6c above. However, the amount of interest considered as a cost cannot be more than the amount by which the estimated cost of carrying out the portion of the project (if it would be carried out at the time the portion is converted to a regularly financed project) exceeds the actual cost (except interest) of carrying out the portion.
- b. Buildings. OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," (60 Fed. Reg. 26484-26507, dated May 15, 1995) allows financing costs (including interest) associated with the otherwise allowable costs of building acquisition, construction, or fabrication, reconstruction or remodeling completed after October 1, 1980, subject to conditions identified in paragraph c, subparagraphs (1) - (4) below. The term, building, includes the associated real property (land) and fixtures.
- c. Equipment. OMB Circular A-87 also allows financing costs (including interest) paid or incurred on or after September 1, 1995, associated with otherwise allowable costs of equipment subject to the conditions (1)-(4) cited below.

The term, equipment, is defined in OMB Circular A-87 as "an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals the lesser of (a) the capitalization level established by the governmental unit for financial statement purposes, or (b) \$5000."

Conditions associated with the allowable financial costs for buildings and equipment are as follows:

- (1) The financing is provided (from other than tax or user fee sources) by a bona fide third party external to the governmental unit;
- (2) The assets are used in support of Federal awards;

- (3) Earnings on debt service reserve funds or interest earned on borrowed funds pending payment of the construction or acquisition costs are used to offset the current period's cost or the capitalized interest, as appropriate. Earnings subject to being reported to the Federal Internal Revenue Service under arbitrage requirements are excludable.
  - (4) Governmental units will negotiate the amount of allowable interest whenever cash payments (interest, depreciation, use allowances, and contributions) exceed the governmental unit's cash payments and other contributions attributable to that portion of real property used for Federal awards.
- d. Working Capital. Interests and other financial costs associated with borrowing to provide working capital for the payment of current operating expenses are eligible operating costs, as noted in Appendix D of this circular.
  - e. Leasing. As noted in paragraph Chapter III, paragraph 4e, "Leasing Capital Assets," leasing costs eligible for capital assistance include finance charges, including interest. Note: leasing arrangements include certificates of participation (COPs) and cross-border leasing, as well as traditional leasing of capital assets.
  - f. Capital Cost of Contracting. As noted in Chapter III, paragraph 4f, "Capital Cost of Contracting," interest on facilities and equipment is eligible for reimbursement by FTA when a grantee enters into a contract with a third party for service or maintenance.
  - g. Other Interest Costs. FTA will consider other proposals concerning the eligibility of interest on a case-by-case basis. The guidelines provided in OMB Circular A-87, Attachment B, "Selected Items of Cost," and in OMB Circular A-122, "Cost Principles for Non-profit Organizations," dated June 1, 1998, will be used in such considerations.

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